

The Audit staff concluded that the Committee's analysis was not consistent with the provisions of 11 CFR §110.1, not consistent with the matching fund regulations and the post date of ineligibility matching fund entitlement system, and not consistent with their own treatment of these contributions.

As noted, section 110.1 of the Commission's regulations states that to be considered designated to a particular election a contribution must clearly indicate the election with respect to which the contribution is made. In the view of the Audit staff the majority of the contributions in contention are so designated. By the Committee's calculation, over \$2.2 million of the \$2.8 million in post date of ineligibility contributions were made payable to the Committee and \$1.6 million of that was photocopied with a Committee solicitation attached. The Committee and Compliance Committee have different and distinctive names, Clinton For President Committee vs. Clinton/Gore '92 General Election Compliance Fund. Each entity had its fundraising appeals that made it clear which committee was soliciting the contributions. Each committee is a separate entity, has separate accounts, files separate reports with the Commission and has different funding sources. Therefore, the Audit staff stated that a check made payable to Clinton For President is designated in writing for the primary election and, to conclude otherwise would be inconsistent with other provisions in the matching fund regulations. ~~As explained above, the Commission's regulations have for many years held that after the date of ineligibility private contributions must be applied to a campaign's deficit before any matching funds may be received by the committee. The Staff concluded that to allow contributions solicited by, made payable to, received by, and deposited by the primary committee to be transferred wholesale to the general election compliance fund is completely inconsistent with the matching fund regulations. Rather than minimize the amount of post date of ineligibility matching funds paid to a candidate such an interpretation would encourage candidates to manipulate their contributions in such a way as to maximize their receipt of matching funds.~~

The Audit staff analysis also concluded that other sections of the Commission's regulations governing the matching fund program support the Commission's interpretation. In 11 CFR §9034.8(c)(7)(iv), it is clear that when dealing with joint fundraising by publicly funded campaigns, contribution checks made payable to a particular participant are considered to be earmarked or designated to that participant. The case at hand is similar. The contribution is made payable to a particular committee.

Section 9034.5(a)(2)(i) of Title 11 of the Code of Federal Regulations defines cash on hand to include all contributions dated on or before the date of ineligibility. This includes checks received and deposited after the date of ineligibility. The Committee's analysis of their contributions includes as general election contributions some contributions

dated on or before the date of ineligibility. Finally, section 9034.2 of the Commission's regulations define in part, a matchable contribution to be one that is dated, physically received and deposited by the candidate, or any of the candidate's authorized committees, on or after January 1 of the year immediately preceding the calendar year of the Presidential election, but no later than December 31 following the matching payment period, and made payable to the candidate or his or her authorized committees. The Audit staff concluded that following the Committee's analysis none of the contributions dated after the date of ineligibility would be matchable. To match such contributions would suggest that contributions intended for the general election and transferable to the compliance fund could be matched for the primary committee.

In the opinion of the Audit staff, the Committee's own analysis was inconsistent with respect to these contributions. The lists supporting those contributions made payable to Clinton For President begin with deposits on August 6, 1992. The apparent reason is that the Committee's final matching fund submission contained contributions deposited through August 5, 1992. A sample of the contributions deposited between the date of ineligibility and August 5, 1992, was selected and examined to determine if those contribution checks were different with respect to payee or election designation. No difference was noted. Thus it appears that more significant to the Committee's analysis than an express election designation, is whether the Committee submitted the contribution for matching. Even more revealing was a review of the contributions contained on the Committee's list of contributions not made payable to Clinton For President and now considered general election contributions. First, a number of contributions are dated before the date of ineligibility and are therefore considered cash on hand for NOCO purposes. Second, a spot check of the contributions on this list dated after the date of ineligibility and deposited before August 6, 1992 indicates that the majority of the contributions were submitted for matching and matched. In the opinion of the Audit staff the Committee cannot have it both ways.

The Committee's response to the Interim Audit Report goes on to argue that in August of 1992 the Committee made a calculation of the cut-off date beyond which no further matching funds would be sought. The Committee contends that this estimate was made without benefit of hindsight or the results of the audit. As a result, the Committee states that fewer contributions were raised for the Compliance Committee than would have been the case had the Committee known the position that the Commission would take with respect to post date of ineligibility contributions. The Committee argues further that to require the Compliance Committee to transfer the funds back to the Primary Committee would result in unfairness to the Committee because it may leave insufficient amount in the Compliance Fund to pay continued general election winding down costs.

28091

This argument appears to refer back to the Committee's response to this issue at the exit conference and its later response to the exit conference. As explained above, and in the Interim Audit Report, in the opinion of the Audit staff, the Committee's calculation was not in accordance with the Commission's current regulations or long standing practice. Therefore, for the Commission to forgo the transfer from the Compliance Committee and the recapture of matching funds in excess of entitlement from the Committee, would constitute a matching fund subsidy for the Compliance Committee. Such a subsidy would be well beyond the statutory scheme.

The Committee also objects to the application of both private contributions and matching funds as each is received rather than accounting for matching funds at the time of submission. The Committee notes two perceived problems with this system. First is the uncertainty of a committee's private contribution flow between the time a submission is made and the time matching funds are paid. The Committee contends that it is possible for a candidate's matching fund entitlement to change significantly between those two dates making the determination of when no further funds are needed impossible. The Committee suggests that a better approach would be to include matching funds in the calculation at the time of submission. As explained above and in the Interim Audit Report, the system in place furthers the goal of having campaigns, to the extent possible, pay debts after the candidate's date of ineligibility with private contributions. As for knowing when no further matching funds are needed, it is the committees that are in the best position to know if any matching fund entitlement remains. It is the committees that know on a current basis what changes may have occurred with respect to their NOCO, what contributions have been received and the amount of any pending matching fund submission.

Second, the Committee suggests that the current procedure is unfair to the candidate who processes contributions more slowly. The Committee uses as an example a case where contributions received one month are not processed until the next, causing a delay in the receipt of matching funds for those contributions. The alleged inequity that the Committee addresses occurs if the candidate is able to raise sufficient private contributions to liquidate his NOCO before having an opportunity to submit the earlier contributions and have them matched. Again, the Commission's long standing policy is to encourage committees to use private contributions to pay campaign debts. The Committee's suggestion to make the entitlement calculation at the time of submission rather than at the time of payment would maximize the receipt of matching funds, while potentially leaving the candidate with surplus private contributions received after the last matching fund submission is made.

As a final point, the Committee includes a footnote that states:

"The Committee believes that the Commission's approach in this regard is inconsistent with the legal concept of 'entitlement.' A candidate who qualifies for matching funds is entitled to receive them in an amount equal to matchable contributions raised up to 50% of the expenditure limitation. 26 U.S.C. §9034. The process would be far less costly and simpler to administer if the Commission, as envisioned by the statutory language, were to match qualifying contributions up to the 50% limitation and seek a ratio surplus repayment once all obligations have been satisfied. 26 U.S.C. §9038(b)(3). In fact, if the Commission followed the statutory scheme it may be possible to resolve the audits within the six months contemplated in the surplus repayment provision. Id."

Committee Counsel's highly optimistic analysis of the benefits of the recommended change in approach aside, it is noted that the Commission considered and rejected just such a system in the course of its 1987 amendments to the Matching Fund Regulations. More recently, a July 8, 1994, opinion by the U.S. Court of Appeals for the District of Columbia in *Lyndon H. LaRouche and LaRouche Democratic Campaign '88 v. Federal Election Commission* is relevant. In that decision the Court quotes 11 CFR §9034.1(b) concerning the application of private contributions to a candidate's NOCO and states:

"This language would appear to be dispositive. A candidate is entitled to receive post-DOI matching payments so long as net campaign obligations remain outstanding; and the regulation defines a candidate's 'remaining[NOCO]' as the difference between the amount of his original NOCO and 'the sum of the contributions received ... plus matching funds received.'... Whenever the sum of his post-DOI receipts equal the amount of his NOCO-whether those receipts be in the form of private contributions or matching payments from the public fisc-his entitlement to further matching payments comes to an end. Even if we were to find the regulation ambiguous, which we do not, we would still have to accept the Commission's interpretation of section 9034.1(b) unless we found it 'plainly inconsistent with the wording of the regulation,'... which it is not.

"Having concluded that the Commission's interpretation of its regulations is not merely reasonable, but compelling, we must determine whether the regulations, as construed, represent a permissible interpretation of the Act."

"Here, petitioners have failed to cite anything in either the language or structure of the Act that would render the Commission's interpretation of section 9033(c)(2) unreasonable. To the contrary, its provisions make it clear that Congress wished to restrict the availability of matching payments to candidates it considered viable. Thus the Act expressly limits the class of those who are eligible for funds, 26 U.S.C. § 9033, and it withdraws the eligibility of candidates who fail to receive at least ten percent of the vote in two successive primaries. Id §

9033(c)(1)(B). Under the circumstances, we fail to discern why it is impermissible for the Commission to adopt a regulation that terminates post-DOI matching payments as soon as a candidate has received sufficient funds from private and public sources to liquidate his NOCO, whether or not they are so used."

Although President Clinton did not become ineligible due to a failure to receive 10% of the vote in two consecutive primaries, once he had past the date of ineligibility the provisions of 11 CFR §9034.1 are applicable and as the Court concluded, consistent with the statutory scheme.

After considering the Committee's arguments and examining the documentation assembled by the Committee to support their calculations, the Audit staff again reviewed the composition of the \$155,686 allowance for contributions transferable to the Compliance Committee included in the Interim Audit Report calculations. That allowance included \$34,585 in excessive contributions redesignated to the Compliance Committee, \$52,357 specifically designated to the Compliance Committee by virtue of the payee or a notation on the check's memo line, and \$68,744 in contributions that were made payable to a non-specific payee (e.g., Bill Clinton, Clinton Team, Clinton Campaign, etc.) dated after the date of ineligibility and not associated with any solicitation. In further review, it was learned that many of the contributions in the non-specific payee category deposited after the date of ineligibility but on or before August 5, 1992 were submitted for matching and matched. This is in accord with the Commission's Guideline For Presentation In Good Order and Regulations which state that a matchable contribution is to be made payable to the candidate or his or her authorized committees. Thus it was apparent that the Committee treated contributions with such payees as primary contributions. The Audit staff could see no reason to challenge that treatment. The amount that calculated as transferable to the Compliance Committee from contributions received and deposited by the Committee between July 16, and September 2, 1992 was \$99,806. That amount consists of \$34,585 in redesignated excessive contributions, \$56,792 in checks made payable to or otherwise designated to the general election campaign, and \$8,429 in cash contributions identified during the review of records made available with the Committee's response to the Interim Audit Report.

For the reasons presented above, the Audit staff concluded that the Committee has received matching funds in excess of the Candidate's entitlement. Presented below is a calculation of the amount as presented to the Commission for consideration.

Net Outstanding Campaign Obligations(Deficit) at 7/15/92	(\$7,878,678)
Private Contributions (7/16/92-9/2/92)	5,275,920 <u>9</u> /
Matching Fund Payment (8/4/92)	1,431,599
Matching Fund Payment (9/2/92)	<u>1,786,327</u>
Amount Received in Excess of Entitlement	<u>\$ 615,168</u>

Therefore, it was calculated that as of September 2, 1992, the Candidate had received matching funds in excess of his entitlement. After that date the Candidate received one additional matching fund payment in the amount of \$2,825,181 bringing the amount received in excess of entitlement to \$3,440,349 (\$615,168 + \$2,825,181).

In the report considered by the Commission the Audit staff recommended that the Commission make an initial determination that the Committee was required to repay the United States Treasury \$3,440,349 pursuant to 11 CFR §9038.2(b)(1).

During the consideration of the Final Audit Report, the Commission determined that, consistent with a similar determination in the audit of the Bush-Quayle campaign, certain amounts discussed in Section III. B. 2., General Election Expenditures, were allocable in part to the primary campaign. As a result, the amount shown on the NOCO statement as receivable from the General Committee was reduced. This adjustment causes a \$424,602 increase in the Committee's NOCO and matching fund entitlement. Further, the Commission considered the question of the application of private contributions to the Committee's remaining net outstanding campaign obligations as of the date of each matching fund payment, versus treating most post date of ineligibility contributions as containing no election designation and therefore transferable to the Compliance Committee.

9/ The Committee deposited private contributions totaling \$5,411,443 during the period July 16, 1992 to September 2, 1992. The private contributions noted above are net of contribution refunds totaling \$35,717, and contributions from individuals, totaling \$99,806, deposited in the primary accounts that could be transferred to the Compliance Committee (\$5,411,443 - \$35,717 - \$99,806).

28095

A motion was made to support the Staff analysis requiring the application of private contributions to remaining net outstanding campaign obligations before the payment of further matching funds. That motion failed by a vote of three to three with Commissioners Potter, Elliott and Aikens voting in favor and Commissioners McDonald, McGarry and Thomas voting against. A second motion to consider all post date of ineligibility contributions unmatchable unless specifically designated for the primary election also failed by the same vote.

As a result of these Commission votes, only contributions deposited through August 5, 1992, the last deposit date for which contributions were submitted for matching, will be applied to the remaining net outstanding campaign obligations prior to subsequent matching fund entitlement determinations. As compared to the calculation considered by the Commission on December 15, 1994, \$1,943,403 less in private contributions is applied to the Committee's remaining net outstanding campaign obligations. Also, post date of ineligibility contributions deposited on or before that date will be considered matchable without a specific election designation. This outcome produces the following entitlement determination.

Net Outstanding Campaign Obligations (Deficit) at 7/15/92, as revised	(\$8,303,280)
Less:	
Private Contributions (7/16/92-8/5/92)	3,332,517 <u>10</u> /
Matching Fund Payment (8/4/92)	1,431,599
Matching Fund Payment (9/2/92)	1,786,327
Matching Fund Payment (10/2/92)	<u>2,825,181</u>
Amount Received in Excess of Entitlement	<u>\$1,072,344</u>

10/ The Committee deposited private contributions totaling \$3,381,102 during the period July 16, 1992 to August 5, 1992. The private contributions noted above are net of contribution refunds totaling \$22,280, and contributions from individuals, totaling \$26,305, deposited in the primary accounts that could be transferred to the Compliance Committee (\$3,381,102 - \$22,280 - \$26,305).

Therefore, as of October 2, 1992, the Candidate had received matching funds in excess of his entitlement in the amount of \$1,072,344.

Recommendation #4

Given the Commission's actions with respect to this finding, the Audit staff recommends that the Commission make an initial determination that the Candidate is required to repay the United States Treasury \$1,072,344 pursuant to 11 CFR § 9038.2(b)(1).

E. Stale Dated Committee Checks

Section 9038.6 of Title 11 of the Code of Federal Regulations states that if the committee has checks outstanding to creditors or contributors that have not been cashed, the committee shall notify the Commission. The committee shall inform the Commission of its efforts to locate the payees, if such efforts have been necessary, and its efforts to encourage the payees to cash the outstanding checks. The committee shall also submit a check for the total amount of such outstanding checks, payable to the United States Treasury.

The Audit staff performed bank reconciliations through June 30, 1993 and determined that the total amount of outstanding checks was \$111,673. Of this amount, \$79,119 were for checks dated between November, 1991 and March 19, 1993.

In the Committee's response to the exit conference, it provided documentation which demonstrated that checks totaling \$9,596 were not outstanding. However, the Committee did not provide evidence which demonstrates that no liability exists for those checks still considered outstanding nor were copies presented of any negotiated replacement checks.

Therefore, in the Interim Audit Report checks totaling \$69,523 (\$79,119 - \$9,596) were considered outstanding.

In the Interim Audit Report, the Audit staff recommended that the Committee present evidence that:

- a) The checks are not outstanding (i.e., copies of the front and back of the negotiated checks); or
- b) the outstanding checks are void (copies of the voided checks with evidence that no obligation exists, or copies of negotiated replacement checks); or
- c) the Committee attempted to locate the payees to encourage them to cash the outstanding checks or provide evidence documenting the Committee's efforts to resolve these items.

28097

The Audit staff added that any information provided would be reviewed with respect to any amounts which remained outstanding, a recommendation would be made that the Commission make an initial determination that the amounts are payable to the United States Treasury.

In the response to the Interim Audit Report the Committee voided checks totaling \$43,389. Of that amount the Committee provided evidence that checks totaling \$28,618 were reissued and subsequently negotiated by the payee. Three checks that were reissued totaling \$1,043 were outstanding. The Committee did not provide a copy of the voided checks or any documentation which demonstrates that no liability exist for the remaining checks totaling \$13,728.

Finally, the Committee states in its response that letters had been sent for checks totaling \$26,133. Of that amount two checks totaling \$46 cleared the bank and are not considered stale dated. No other documentation or information was provided by the Committee.

In summary, the Audit staff has determined that the revised amount of stale dated outstanding checks is \$40,859 (\$69,523 - \$28,618 - \$46).

Recommendation #5

The Audit staff recommends that the Commission make an initial determination that \$40,859 is payable to the United States Treasury pursuant to 11 C.F.R. §9038.6.

F. Recap of Amounts Due to the U.S. Treasury

Shown below is a recap of amounts due the U.S. Treasury as discussed in this report.

Non-qualified Campaign Expenses	\$ 270,384
Matching Funds in Excess of Entitlement	1,072,344
Stale Dated Checks	<u>40,859</u>
TOTAL	<u>\$1,383,587</u>

Adjusted Receipts
(Through September 30, 1994)

	Federal Matching Funds	Individual Contributions Minus Refunds	PAC's and Other Committees From the Candidate	Candidate Loans Minus Repayments	Other Loans Minus Repayments	Other Receipts	Adjusted Total Receipts
Democrats							
Larry Agon	\$288,691	\$331,831	\$0	\$3,000	\$1,029	\$3,001	\$608,652
Jerry Brown	\$4,239,345	\$5,176,338	\$0	\$0	\$0	\$4,693	\$9,420,374
Bill Clinton	\$12,516,130	\$24,663,688	\$2,429	\$0	\$1	\$30,724	\$37,534,972
Tom Harkin	\$2,103,352	\$3,090,208	\$418,570	\$0	\$0	\$22,691	\$5,621,729
Bob Kerrey	\$2,199,284	\$3,613,332	\$349,757	\$0	(\$1,225)	\$5,931	\$6,496,079
Lyndon LaRouche	\$568,434	\$1,604,085	\$0	\$0	\$0	\$6,231	\$2,180,730
Paul Tsongas	\$3,039,388	\$5,072,688	\$3,598	\$0	(\$9,375)	\$0	\$8,181,068
Doug Walker	\$266,026	\$508,519	\$750	\$0	\$0	\$1,039	\$769,334
Total Democrats	\$35,225,650	\$44,670,466	\$772,072	\$3500	(\$9,770)	\$79,220	\$70,783,136
Republicans							
Patrick Buchanan	\$4,999,993	\$7,157,808	\$24,750	\$0	\$0	\$43,940	\$12,226,481
George Bush	\$10,658,513	\$27,068,825	\$44,250	\$0	\$0	\$222,417	\$38,014,005
David Duke*	\$0	\$220,715	\$0	\$0	\$0	\$0	\$221,918
Total Republicans	\$15,658,486	\$34,467,348	\$69,000	\$0	\$0	\$266,357	\$50,512,301
Other Party							
Andre Marrou*	\$0	\$562,770	\$181	\$116	\$0	\$0	\$579,067
Lenora Fulani*	\$1,936,824	\$3,201,490	\$0	\$325	\$1,200	\$0	\$4,137,281
John Hagelin	\$353,160	\$663,600	\$449	\$0	\$5,830	\$5,316	\$928,355
Total Other Party	\$2,289,984	\$3,328,060	\$630	\$441	\$6,830	\$5,316	\$5,643,703
Grand Total	\$43,172,930	\$82,465,874	\$841,702	\$3941	(\$2,940)	\$347,893	\$128,939,142
Profit	\$0	\$3,905,594	\$0	\$65,544,735	\$2,058,371	\$5,807	\$71,512,507

28099

Adjusted Disbursements
(Through September 30, 1994)

	Operating Expenditures Minus Offsets	Exempt Fundraising Minus Offsets	Exempt Legal/Accounting Minus Offsets	Other Disburse	Adjusted Total Disbursements	Expenditures Subject to Limits	Latest Cash On Hand	Debits Owed By The Campaign
Democrats								
Larry Agran	\$609,111	\$0	\$0	\$95	\$609,206	\$816,223	\$47	\$3,170
Jerry Brown	\$6,316,622	\$2,278,938	\$311,780	\$108,684	\$9,014,934	\$9,888,482	\$135,462	\$0
Bill Clinton	\$25,321,257	\$5,524,000	\$3,882,875	\$0	\$34,834,932	\$24,528,607	\$264,544	\$20,832
Tom Harkin	\$4,027,765	\$1,144,008	\$188,833	\$35,318	\$5,405,720	\$3,142,973	\$184,248	\$143,389
Bob Kerrey	\$5,181,456	\$1,078,978	\$178,911	\$23,404	\$6,481,751	\$6,050,481	\$9,862	\$0
Lyndon LaRouche	\$1,550,893	\$0	\$132,929	\$290,804	\$1,974,426	\$1,520,588	\$215,155	\$0
Paul Tsongas	\$8,808,157	\$754,978	\$181,375	\$0	\$7,754,510	\$7,001,506	\$7,496	\$164,472
Doug Winter	\$808,778	\$8,588	\$39	\$0	\$813,383	\$807,258	\$786	\$0
Total Democrats	\$50,621,028	\$10,785,466	\$5,004,352	\$458,003	\$66,868,842	\$50,356,178	\$817,418	\$331,663
Republicans								
Patrick Buchanan	\$11,828,288	\$0	\$0	\$0	\$11,828,288	\$11,828,272	\$487,855	\$0
George Bush	\$27,429,416	\$5,528,322	\$4,838,187	\$73,400	\$37,867,307	\$27,428,422	\$6,405	\$0
David Duke	\$383,838	\$0	\$0	\$1,000	\$384,838	\$0	\$0	\$28,330
Total Republicans	\$29,641,524	\$5,528,322	\$4,838,187	\$74,400	\$39,180,413	\$39,257,694	\$484,060	\$28,330
Other Party								
Andre Marrou*	\$415,576	\$160,218	\$0	\$0	\$575,795	\$0	\$0	\$0
Louise Fubini*	\$4,204,008	\$0	\$0	\$3,235	\$4,207,244	\$4,207,526	\$0	\$0
John Hagelin	\$700,634	\$91,486	\$52	\$80,283	\$882,337	\$700,534	\$0	\$0
Total Other Party	\$5,320,119	\$251,877	\$52	\$83,528	\$5,655,379	\$4,908,060	\$0	\$0
Grand Total	\$85,552,662	\$16,563,467	\$9,842,571	\$625,931	\$122,884,651	\$94,521,932	\$1,311,478	\$361,213
Per Cent	\$89,152,996		\$0	\$5,366	\$96,156,366	\$0	\$1	\$1,938,407

Duplicate Payments

PAYEE	DUPLICATE PAYMENTS	REFUNDED AMOUNTS	RECEIVABLE FROM VENDOR
A T & T	\$19,021	\$19,021	
2 Airborne Express	399	399	
3 Alamo	43,420	43,420 *	
Alltel	867	867	
A. B. Data	2,614	2,614	
6 Bachar, Steven	1,200		\$1,200
Brantley Sound Associates	250	250	
Budget Rent-A-Car	1,385	1,385	
Bylites	12,569	1,424	11,145
10 C & P Telephone	3,606	3,606 *	
Carville and Begala	5,063	5,063	
ExecJet/TRM/AMAirSvcs	4,776	4,776 *	
3 Gibbs, Geoffrey	508		508
4 Halloran, Charles	500		500
Ickes, Harold	2,216		2,216
Leslie, Mary	17,921		17,921
7 Madison Hotel	7,502	7,502	
Merchant's Rent-A-Car	2,018	2,018	
Motorola	4,919	4,919	
Palmer House	6,832	6,832	
1 Radisson Hotel Atlanta	2,452	2,452	
2 Share Systems	1,394	1,394	
3 Sheraton Cleveland	6,766	6,766	
4 Southwestern Bell	17,054		17,054
5 Sprint (14,550.09)	19,198	19,198 *	
6 Strategic Political Response	49,856	49,856	
7 Thomases, Susan	444	444	
8 Tradec	7,808		7,808
9 Verner Liipfert	10,048	10,048	
West Coast Productions	577	577	
11 Westin Peachtree Plaza	250	250	
12 Weststates Airlines/Richmor Aviation	280	280	
13 Willis, Carol	2,062		2,062
14 W.P. Malone	4,850		4,850
15 Zale S. Koff Graphics	257	257	
TOTAL:	260,884		65,264

* THESE PAYMENTS WERE REFUNDED TO THE GENERAL COMMITTEE
OR APPLIED TO GENERAL ELECTION EXPENSES

28101

COMPUTER SYSTEMS UTILIZATION
CLINTON FOR PRESIDENT COMMITTEE, CLINTON/GORE 92

August 1991-October 1991

Equipment: 386 PC running 8 devices

Vendor: Malone & Company

Functions Performed: Ran office package including word processing and scheduling; ran political data base. Maintained contributor information. Supported staff of 18.

November 1991-May 1992

Equipment: Unix CCI 6/32 running up to 128 devices, 80 simultaneous users.

Vendor: Malone & Company

Functions Performed: Continued to run office package including word processing and scheduling as well as running political data base. Supporting 40 work stations on the network. Supported staff of 49 at the end of November which had grown to 173 by the end of May. By the end of May, forty core staff and approximately 100 auxiliary staff people were working on delegate relations. The computer system provided terminals for 20% of the core staff. Mailings and calls to each delegate after each state primary were necessary and computerized tracking was maintained.

General correspondence had grown to 1600 letters per week by the end of May and doubled again in June. Governor Clinton felt it was critical that every letter be answered, and in a timely manner. This continual growing load of correspondence greatly taxed the processing power of the CCI 6/32 and its software.

The overall capacity of the CCI 6/32 system was physically limited to 128 devices (terminals, printers, modems, etc.). Of that number *only 80 devices* could be operated simultaneously without experiencing computer problems such as terminal lockouts, system crashes, processing delays of up to 30 minutes or more, etc. Backups required manual intervention and took up to a full week to complete. They were obsolete before they were completed. A summary of the devices supported by the CCI 6/32 at various times during this time frame is as follows:

Month	Terminals	Modems	Printers	Total Devices
December, 1991	36	3	10	49
January, 1992	52	3	12	67
February and March, 1992	64	5	14	83
April, 1992	88	7	18	113
May, 1992	91	9	18	118

Service was required on a recurring basis due to system failures. (Copies of sample service requirements are attached.)

28102 -

The ever-growing young staff was familiar with the DOS working environment and needed to be able to use Novell. Extensive upgrades to both the hardware and software were going to be necessary to accommodate the user needs. Quotes were taken regarding the necessary upgrades to the existing system where it was determined that a new system would actually cost less. (Upgrades were projected to cost in excess of \$400,000 and the result would have been less desirable than an entirely new system.) Several consultants were involved in the decision process and all agreed that the new system was the only sensible alternative.

May 30, 1992-present

Equipment: DRS 6000, 386 pc's and networks. DRS 6000 was originally configured to accommodate 150 simultaneous users. Additional computer components were added during the General Election to ultimately take the capacity to 300 users.

Vendors: ICL, Inc.—hardware and software, Malone & Company—hardware and consulting, Future Now and Complete Computing—personal computers and software.

Functions Performed: Continued to run office package including word processing and scheduling as well as running political data base for balance of Primary and during General Election.

System expansion in May, 1992 accommodated additional user needs of tracking delegates for the Democratic Convention, allowing the delegate operation to interface using a separate Novell network—portable for use in New York during the Convention.

This equipment (temporary system) was installed in the Gazette Building. (The Committee had outgrown its old space and made the move to the new space effective June 1, 1992.) Installing the new equipment in the old building and moving it to the Gazette Building in just a few days would not have been cost effective or sensible considering the tempo of campaign operations. A temporary system was necessary due to the Committee's urgent computer needs as indicated by the chart above. The permanent system was installed less than one month later.

The new system required a new networking system and extensive rewiring. (I-K Electric provided the wiring.)

The campaign political office package and correspondence records were immediately transferred to the new temporary system. They were then transferred to the permanent system upon its final installation. Every effort was made to successfully make the transfer with the minimum of disruption to daily staff activities.

Primary records were maintained and functions performed through the Convention after which the General Election began. Primary political records and other information were used in the General Election. This equipment was sold to the Clinton/Gore '92 Committee effective after the Convention.

Clinton for President records previously maintained by Public Office Corporation as well as detailed transaction files from World Wide travel were transferred to the ICL equipment as part of the winddown operation. Amendments required by FEC auditors related to press and Secret Service reimbursements as well as continuing data to respond to audit questions and make quarterly FEC filings have been maintained.

Accounting records to include vendor information and cash disbursements have been maintained by the Committee on in-house 386 computers.

Data necessary for preparation of amendments necessary to debt schedules originally prepared by POC covering inception through March, 1993 has been reconstructed by the Committee. Amended reports were prepared and filed.

Many of the PCs and printers were sold to Transition, staff and others at the end of the General Election.

December, 1991-Present

Equipment: N/A due to service bureau nature of services

Vendor: Public Office Corporation (POC)

Functions Performed: Public Office Corporation provided data processing services for Clinton for President in the area of producing required contribution records and related matching funds submissions. They also maintained information on cash disbursements and prepared the FEC monthly compliance reports for the periods December, 1991 through March, 1993. During late 1992 and early 1993, the Committee began the difficult task of moving the POC maintained data to Committee computers in Arkansas. POC has continued to provide minimal services as requested since that time. At present POC still maintains certain duplicate records and answers questions relative to the ongoing audit. It is anticipated that upon completion of the current phase of the FEC audit all records remaining in custody of POC will be moved to Arkansas and the relationship terminated other than on an advisory basis as needed during the duration of the audit period.

POC provided no services to Clinton/Gore '92 or the related Compliance Committee.

July 16, 1992-Present

Clinton/Gore '92 Committee: All accounting related computer services were performed in-house on networked PCs. All FEC compliance reports were prepared internally by the Committee from information generated on the accounting department computers.

Vendors: Future Now, Inc., Complete Computing, Great Plains, Kerry for President Committee

Compliance Committee: All accounting related computer services were performed in-house on separate networked PCs. Compliance Committee computers were separately networked and maintained separate from the Clinton/Gore '92 Committee accounting computers. All FEC compliance reports were prepared internally by the Committee from information generated on the Compliance accounting department computers and manual records.

Vendors: Complete Computing, Aristotle Software

(last updated July 3, 1994)

28104

Non-Qualified Campaign Expense

<u>NAME</u>	<u>AMOUNT</u>
Graves, Kathlyn; Escrow Agent	\$37,500
Ickes, Harold	5,500
Malone, W.P.	608,857
Sheraton Manhattan	6,489
Willis, Carol	11,209
Worthen National Bank	166,658
New England Telephone	7,000
Parking Tickets	2,129
Stolen Fax Machine	1,207
Lost Radios	13,424
PAGE TOTAL:	<u>\$859,973</u>

28105

Non-Qualified Campaign Expense

Bonuses Paid Post DOI

<u>NAME</u>	<u>AMOUNT</u>
David Wilhelm	\$6,000
Rahn Emanuel	52,000
Keeley Ardman	7,500
George Hozendorf	5,000
Avis Lavelle	8,000
Lisa Shocet	1,500
George Stephanopoulos	7,000
Shannon Tanner	2,500
Christine Varney	12,500
Betsy Wright	2,250
Paul Carey	3,000
Jim Palmer	2,500
Rick Lerner	3,000
John Frontero	2,500
Nancy Jacobson	3,000
Patrick Dorinson	2,500
Matt Gorman	3,000
Mary Leslie	2,500
Terri Walters	2,500
Simon Kahn	2,500

PAGE TOTAL: 131,250

TOTAL: \$991,223

28106

Clinton for President
Final Audit Report

Attachment 9
Page 1 of 1

Worthen National Bank Listing of Traveler's Cheques

Check #	Date	Amount
6369	02/13/92	4,040
6511	02/17/92	10,100
7036	03/03/92	8,080
7354	03/09/92	3,000
7406	03/11/92	5,050
7628	03/19/92	3,030
7629	03/19/92	8,080
7820	03/26/92	5,050
8040	03/31/92	20,695
8482	04/16/92	5,000
8726	04/23/92	5,050
8810	04/27/92	10,100
9025	05/01/92	10,100
9318	05/13/92	10,100
9429	05/19/92	10,100
9651	05/22/92	10,100
9749	05/28/92	10,100
10185	06/15/92	10,100
10367	06/22/92	5,050
10530	06/26/92	5,050
10799	07/06/92	5,050
10949	07/09/92	16,332
Total:		179,357

09.04.393.2620

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28108



FEDERAL ELECTION COMMISSION
WASHINGTON, D. C. 20543

December 27, 1994

Mr. J. L. "Skip" Rutherford, Treasurer
Clinton For President Committee
c/o Ms. Lyn Utrecht
Oldaker, Ryan & Leonard
818 Connecticut Avenue, N. W.
Washington, D. C. 20006

Dear Mr. Rutherford:

Attached please find the Final Audit Report on Clinton For President Committee. The Commission approved this report on December 27, 1994. As noted on page 4 of this report, the Commission may pursue any of the matters discussed in an enforcement action.

In accordance with 11 CFR 9038.2(c)(1) and (d)(1), the Commission has made an initial determination that the Candidate is required to repay to the Secretary of the Treasury \$1,383,587 within 90 days after service of this report (March 30, 1995).

Should the Candidate dispute the Commission's determination that a repayment is required, Commission regulations at 11 CFR §9038.2(c)(2) provide the Candidate with an opportunity to submit in writing, within 30 calendar days after service of the Commission's notice (January 30, 1995), legal and factual materials to demonstrate that no repayment, or a lesser repayment, is required. Further, 11 CFR §9038.2(c)(3) permits a candidate who has submitted written materials to request an opportunity to make an oral presentation in open session based on the legal and factual materials submitted.

The Commission will consider any written legal and factual materials submitted by the Candidate within the 30 day period in making a final repayment determination. Such materials may be submitted by counsel if the Candidate so elects. If the Candidate decides to file a response to the initial repayment determination, please contact Kim L. Bright-Coleman of the Office of General Counsel at (202) 219-3690 or toll free at (800) 424-9530. If the Candidate does not dispute this initial determination within the 30 day period provided, it will be considered final.

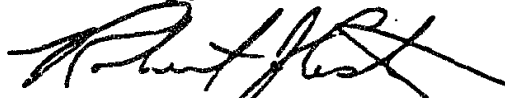
28109

Letter to Mr. J. L. "Skip" Rutherford, Treasurer
Page 2

The Commission approved Final Audit Report will be placed on the public record on December 29, 1994. Should you have any questions regarding the public release of this report, please contact Ron Harris of the Commission's Press Office at (202) 219-4155.

Any questions you may have related to matter covered during the audit or in the audit report should be directed to Joe Stoltz, Russ Bruner or Leroy Clay of the Audit Division at (202) 219-3720 or toll free at (800) 424-9530.

Sincerely,



Robert J. Costa
Assistant Staff Director
Audit Division

Attachment as stated

cc: Lyn Utrecht, Esq.

28110



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20546

December 27, 1994

The Honorable William J. Clinton
c/o Ms. Lyn Utrecht
Oldaker, Ryan & Leonard
818 Connecticut Avenue, N. W.
Washington, D. C. 20006

Dear Mr. President:

Attached please find the Final Audit Report on Clinton For President Committee. The Commission approved this report on December 27, 1994. As noted on page 4 of this report, the Commission may pursue any of the matters discussed in an enforcement action.

In accordance with 11 CFR 9038.2(c)(1) and (d)(1), the Commission has made an initial determination that you are required to repay to the Secretary of the Treasury \$1,383,587 within 90 days after service of this report (March 30, 1995).

Should you dispute the Commission's determination that a repayment is required, Commission regulations at 11 CFR §9038.2(c)(2) provide you with an opportunity to submit in writing, within 30 calendar days after service of the Commission's notice (January 30, 1995), legal and factual materials to demonstrate that no repayment, or a lesser repayment, is required. Further, 11 CFR §9038.2(c)(3) permits a candidate who has submitted written materials to request an opportunity to make an oral presentation in open session based on the legal and factual materials submitted.

The Commission will consider any written legal and factual materials submitted by you within the 30 day period in making a final repayment determination. Such materials may be submitted by counsel if you so elect. If you decide to file a response to the initial repayment determination, please contact Kim L. Bright-Coleman of the Office of General Counsel at (202) 219-3690 or toll free at (800) 424-9530. If you do not dispute this initial determination within the 30 day period provided, it will be considered final.

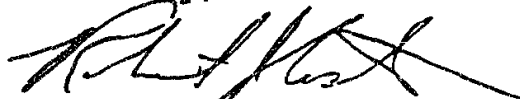
28111

Letter to The Honorable William J. Clinton
Page 2

The Commission approved Final Audit Report will be placed on the public record on December 29, 1994. Should you have any questions regarding the public release of this report, please contact Ron Harris of the Commission's Press Office at (202) 219-4155.

Any questions you may have related to matter covered during the audit or in the audit report should be directed to Joe Stoltz, Russ Bruner or Leroy Clay of the Audit Division at (202) 219-3720 or toll free at (800) 424-9530.

Sincerely,



Robert J. Costa
Assistant Staff Director
Audit Division

Attachment as stated

cc: Lyn Utrecht, Esq.

28112

CHRONOLOGY
CLINTON FOR PRESIDENT COMMITTEE

Pre-audit Inventory Commenced	12/7/92
Audit Fieldwork	2/2/93 - 8/31/93
Interim Audit report to the Committee	4/4/94
Response Received to the Interim Audit Report	7/6/94
Final Audit Report Approved	12/27/94

28113

Anderson Report - Tab 29

29001-29039: Relevant Information and Recent Articles About the FEC

Documents:

29001/A	Lyn Utrecht professional bio
29002/B	Cover of Federal election law booklet
29003	Text of Title 18 Section 1001
29004&5/C	Biographies of FEC Commissioners at time of CPC audit
29006/D	FEC organizational chart
29007&8/E	Political reporter comments on IRS 1040 checkoff
29009&10/F	Political reporter comments on long-time vacancy at FEC
29011/G	Another comment regarding Republican vacancy at FEC
29012/G.1	News comment noting FEC's lack of timely action
29013/H	Editorial comment states breaking the election law carries little risk at FEC
29014/H.1	Chairman and vice chairman FEC commissioners operate on expired terms
29015/I	Reappointment of McGarry signals Democrats want more of the same
29016/I.1	Republicans are also confident that FEC will reject law enforcement
29017-19/J	News magazine article entitled [FEC] Designed for Impotence
29020-22/K	Governor Clinton's personal guarantee that CPC will abide by law
29023-24/L	Regulation requires NOCO statements to be accurate
29025/M	Regulation stipulates legal transfers to Compliance fund
29026&27/N	Miscellaneous information from libel law text
29028/O	Copy of IRS instructions regarding \$3 checkoff
29029	Blank
29030/O.2	IRS Form 1040 showing checkoff question
29031/P	Page from MUR 4192, FEC general counsel's opinion that law violated
29032/Q	Page from MUR 4192, FEC general counsel's opinion that law violated
29033/R	Newspaper article announcing record repayment request - Dec 13, 1994
29034&35/S	Newspaper article regarding various CPC audit anomalies
29036/T	From FEC final audit report - example of CPC ignoring FEC requests
29037/U	From FEC final audit report (Andersons believe Sherry Curry not on CPC payroll during much of period for which Curry attested to correspondence volume)
29038/V	Recent news comment re 1992 CPC matching funds used for payoffs
29039/W	Recent news comment re percentage of Americans okaying \$3 checkoff

Contributor, Americans With Disabilities Act: Employee Rights And Employer Obligations. Matthew Bender, 1992. *Member:* The District of Columbia Bar; American Bar Association. (Also at Atlanta, Georgia and Greenville, South Carolina Offices).

ELIZABETH I. TORPHY-DONZELLA, born Battle Creek, Michigan, January 5, 1961; admitted to bar, 1992. Maryland; 1993. District of Columbia. *Education:* University of North Carolina at Chapel Hill (B.A., cum laude, 1985); Georgetown University Law Center (J.D., cum laude, 1992). *Member:* Phi Sigma Alpha. The National Political Science Honors Society. Associate Editor, Georgetown Journal of Legal Ethics, 1991-1992. *Member:* Maryland State Bar Association, Inc. (Also at Greenville, South Carolina and Atlanta, Georgia Offices).

ROBERT T. LEE, born Richmond, California, May 30, 1948, admitted to bar, 1973. Iowa; 1988. District of Columbia; 1991. New Jersey. *Education:* Drake University (B.A., 1970; J.D., 1972); George Washington University (LL.M., with highest honors, 1979). *Author:* "The Reallocation of Environmental Liability," Federal Acquisition Report 14 (July 1991); "EPA Response Action: Contracting and Cost Recovery under CERCLA," Toxic Law Reporter 216 (1989); "Environmental Liability: Uncertain Times for Government Contractors," 15 Environmental Management Review 127 (1990). Co-author: "Private Party Action Against Federal Officiars for Environmental Wrongs," 31 Air Force Law Review 31, (1989); "Government Contractors and Environmental Litigation," 19 Environment Reporter 2135 (1989). Judge Advocate, U.S. Air Force, 1973-1985. Trial Attorney, U.S. Department of Justice, 1985-1988. Co-Chairman, "Environmental Laws and Regulations," 1991 and 1992. *Member:* The District of Columbia Bar; Iowa State Bar; New Jersey State Bar and American Bar Associations. Lt. Colonel, U.S. Air Force Reserve. (Also at Atlanta, Georgia and Greenville, South Carolina Offices).

OF COUNSEL

STANLEY R. STRAUSS, born New York, New York, June 3, 1915, admitted to bar, 1941. New York; 1964. District of Columbia; 1965. U.S. Supreme Court. *Education:* Williams College (B.A., cum laude, 1936); Columbia University (LL.B., Hon. Scholar, 1940). National Labor Relations Board, Supervising Attorney, 1953-1959 and Chief Counsel, 1959-1963. Co-author: "Practice and Procedure Before the National Labor Relations Board," American Law Institute, 1980 and 1987. *Member:* The District of Columbia Bar; Federal and American Bar Associations.

REPRESENTATIVE CLIENTS: Acorn University; American Textile Manufacturers Institute; BASF Corp.; Becon Construction Co.; BE&K Inc.; Boston University; Burlington Industries Inc.; The Budd Co.; Chevron USA Products Co.; Corning Inc.; Duke Power Co.; E. I. du Pont de Nemours; Eastman Kodak Co.; Etek Corp.; General Electric Co.; A. F. Grace & Co.; John Hancock Mutual Life Insurance Co.; Hercules Inc.; Intech Electronics Devices Inc.; "Inotech" Database Corp.; Kabe Steel USA Inc.; McGraw-Hill Co.; MCI; Minnesota Mining and Manufacturing Co.; Nissan Motor Manufacturing Corporation USA; Pfizer Inc.; Pitt-Des Moines Inc.; Roadway Services Inc.; Rockwell International; Rust International Corp.; Evox Motor Products Inc.; Sanyo Corp.; Weston Inc.; Sony Corporation of America; Spring Industries Inc.; Union Carbide Corp.; USAR Inc.; U.S. Postal Service; Westinghouse Electric Corp.; Winn-Dixie Stores Inc.; YKK USA Inc.

For Complete Biographical data on all Personnel see Atlanta, Georgia and Greenville, South Carolina Professional Biographies.

OLDAKER, RYAN & LEONARD

100 CONNECTICUT AVENUE, N.W., SUITE 100

WASHINGTON, D. C. 20006

Telephone: 202-725-1010

Fax: 202-728-4964

Diversified Legal and Administrative Practice. Taxation, Federal and State Elections, Campaign Finance and Ethics.

MEMBERS OF FIRM

ROBERT J. LEONARD, born Hoboken, New Jersey, April 24, 1946; admitted to bar, 1971. New Jersey; 1974. District of Columbia; U.S. Court of Appeals; District of Columbia Circuit and U.S. Supreme Court. *Education:* University of Pennsylvania (A.B., 1966); Vanderbilt University (J.D., 1971); Wharton School of Finance, University of Pennsylvania (M.B.A., 1972). Chief Counsel and Staff Director, 1987-1993. Chief Tax Counsel, 1981-1986 and Tax Counsel, 1974-1980. Committee on Ways and Means, U.S. House of Representatives. *Member:* District of Columbia Bar; New Jersey State Bar Association.

WILLIAM C. OLDAKER, born Evanston, Illinois, May 8, 1941; admitted to bar, 1966. Iowa; 1968. District of Columbia; 1969. U.S. Supreme Court. *Education:* University of Iowa (LL.B., 1966). Attorney, Federal

This Listing Continues

Communications Commission, 1968-1969; Special Assistant to the Chairman of the Equal Employment Opportunity Commission, 1969-1973. General Counsel, Federal Election Commission, 1976-1979. Counsel/Treasurer, Kennedy for President Committee, 1979-1980. General Counsel, Biden for President Committee, 1987-1988. *Member:* District of Columbia Bar.

THOMAS M. RYAN, born Philadelphia, Pennsylvania, October 8, 1948; admitted to bar, 1975. District of Columbia and U.S. Court of Appeals for the District of Columbia Circuit. *Education:* University of Notre Dame (B.A., 1970); Georgetown University (J.D., 1974). Counsel, 1977-1984 and Chief Counsel, 1985-1987. Committee on Energy and Commerce (formerly Committee on Interstate and Foreign Commerce), U.S. House of Representatives. *Member:* District of Columbia Bar.

CAROLYN UTRECHT, born Washington, D.C., August 30, 1952; admitted to bar, 1979. District of Columbia; 1980. U.S. District Court; District of Columbia; 1981. U.S. Court of Appeals, Fifth, Eleventh and District of Columbia Circuits; 1982. Maryland and U.S. Supreme Court. *Education:* Georgetown University (J.D., cum laude, 1979). Editor, American Criminal Law Review, 1978-1979. Attorney (1979-1981) and Special Assistant General Counsel, (1981-1984). Federal Election Commission: Deputy General Counsel, 1984. Monale for President, General Counsel, 1992. Americans for Harkin. *Member:* Maryland State Bar Association, Inc.; District of Columbia Bar.

ASSOCIATE

GREGORY PAUL SCHAFFER, born Philadelphia, Pennsylvania, October 10, 1963; admitted to bar, 1988. California; U.S. District Court, Southern District of California and U.S. Court of Appeals, Ninth Circuit, 1990. District of Columbia; 1992. U.S. District Court, District of Columbia; U.S. Claims Court. *Education:* George Washington University (B.A., 1985); University of Southern California (J.D., 1988). Editor, Southern California Law Review. *Member:* State Bar of California; District of Columbia Bar.

JACK H. OLENDER

AND ASSOCIATES, P.C.

ONE FARRAGUT SQUARE SOUTH 11TH FLOOR

1634 EYE STREET, N.W.

WASHINGTON, D. C. 20006

Telephone: 202-679-7777

Upper Mariboro, Mariboro Office: 14753 Main Street Telephone 301-627-6762.

General Negligence Trials and Appeals, Products Liability, Personal Injury and Malpractice Law.

JACK H. OLENDER, born McKeesport, Pennsylvania, September 8, 1935; admitted to bar, 1961. District of Columbia; 1965. U.S. Supreme Court; 1966. Maryland. *Education:* University of Pittsburgh (A.B., summa cum laude, 1957; J.D., 1960); George Washington University (LL.M., 1961). Phi Beta Kappa. *Member:* Scribes. Article Editor, University of Pittsburgh, 1959-1960. *Author:* "The Pain and Suffering of a Particular Individual," *Trial and Tort Trends*, 1961; "The Legal Rights of Persons With Epilepsy," *The Epilepsy Foundation*, 2 Volumes, 1962, 1963; "Proof and Evaluation of Pain and Suffering in Personal Injury Cases," *Duke Law Journal*, 1962, No. 3; Chapter on "Pain and Suffering," *American Jurisprudence, Trials*, Bancroft-Whitney Company, 1966; "Obstetric Negligence," *An Introduction to a High-Risk Specialty*, TRIAL Magazine, May, 1984; "Breach of Consumer Standards," TRIAL Magazine, April 1986; "Lessons in Malpractice: 12 Ways to Prevent Lawsuits," *Group Practice Journal*, May/June, 1986; "The Great Insurance Fraud of the '80s," *The National Law Journal*, July 21, 1986; "Medical Malpractice—A Plan for its Cure," *Medical Malpractice Prevention*, Nov. Dec. 1987; "Handicapping the Jury, Lawyer Prejudices in Picking Jurors for Medical Negligence Cases," TRIAL Magazine, February 1988; "How to Avoid Problems with Doctors," *Every Day Law*, March 1989; "Medical Negligence Can Invite Legal Negligence," TRIAL Magazine, May 1989; "Medical Malpractice and the Shroud of Secrecy," *NBA Magazine*, Vol. 4 No. 11, November, 1990. Plaintiff's Lawyer of Year, Association of Plaintiff's Trial Attorneys, 1972. Lawyer of the Year, Bar Association of the District of Columbia, 1991. *Member:* District of Columbia Judicial Conference, 1976-1991. President, Washington Area Chapter, George Washington University Law School Alumni, 1986-1988. *Member:* District of Columbia Bar Association, Personal Injury Law Division, 1974-1982; Bar Association of the District of Columbia (Member, Board of Directors, 1988-1990). Maryland Trial Lawyers Association;

(This Listing Continues)

**FEDERAL ELECTION
CAMPAIGN LAWS**

Compiled by

**THE
FEDERAL
ELECTION
COMMISSION**



JUNE 1994

29002

29-B

refusing to make any political contribution, or working or refusing to work on behalf of any candidate. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

§ 1001. Statements of entries generally

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

Appendix 1 Biographies of Commissioners and Officers

Commissioners

Trevor Potter, Chairman

April 30, 1997¹

Mr. Potter was confirmed by the Senate as a Commissioner in November of 1991. He served as Vice Chairman of the Commission's Finance Committee and Chairman of its Regulations Task Force during 1992. He was elected Commission Vice Chairman for 1993 and Chairman for 1994.

Before his appointment, Mr. Potter specialized in campaign and election law as a partner in a Washington, D.C. law firm. His previous experience in government includes serving as Assistant General Counsel at the Federal Communications Commission from 1984 to 1985, and as a Department of Justice attorney from 1982 to 1984.

Mr. Potter is a graduate of Harvard College. He earned his J.D. degree at the University of Virginia School of Law, where he served as Editor-in-Chief of the Virginia Journal of International Law and was a member of the Order of the Coif. He is currently Chair of the American Bar Association Committee on Election Law, Administrative Law Section. Mr. Potter is a resident of Fauquier County, Virginia.

Danny L. McDonald, Vice Chairman

April 30, 1999

Now serving his third term as Commissioner, Mr. McDonald was first appointed to the Commission in 1981 and was reappointed in 1987 and 1994. Before his original appointment, he managed 10 regulatory divisions as the general administrator of the Oklahoma Corporation Commission. He had previously served as secretary of the Tulsa County Election Board and as chief clerk of the board. He was also a member of the Advisory Panel to the FEC's National Clearinghouse on Election Administration.

A native of Sand Springs, Oklahoma, Mr. McDonald graduated from Oklahoma State University and attended the John F. Kennedy School of Government at Harvard University. He served as FEC Chairman in 1983 and 1989, and in 1994 was elected as the 1995 Chairman.

¹ Term expiration date.

Joan D. Aikens

April 30, 1995

One of the original members of the Commission, Commissioner Aikens was first appointed in 1975. Following the reconstitution of the FEC that resulted from the Supreme Court's *Buckley v. Valeo* decision, President Ford reappointed her to a five-year term. In 1981, President Reagan named Commissioner Aikens to complete a term left open because of a resignation and, in 1983, once again reappointed her to a full six-year term. Most recently, Commissioner Aikens was reappointed by President Bush in 1989. She served as FEC Chairman in 1978, 1986 and 1992.

Before her 1975 appointment, Commissioner Aikens was an executive with Lew Hodges Communications, a public relations firm in Valley Forge, Pennsylvania. She was also a member of the Pennsylvania Republican State Committee, president of the Pennsylvania Council of Republican Women and on the board of directors of the National Federation of Republican Women. A native of Delaware County, Pennsylvania, Commissioner Aikens has been active in a variety of volunteer organizations and was a member of the Commonwealth Board of the Medical College of Pennsylvania and a past President of Executive Women in Government. She is currently a member of the board of directors of Ursinus College, where she received her B.A. degree and an honorary Doctor of Law degree.

Lee Ann Elliott

April 30, 1999

Commissioner Elliott was first appointed in 1981 and reappointed in 1987 and 1994. She served as chairman in 1984 and 1990. Before her first appointment, Commissioner Elliott was vice president of a political consulting firm, Bishop, Bryant & Associates, Inc. From 1961 to 1979, she was an executive of the American Medical Political Action Committee. Commissioner Elliott was on the board of directors of the American Association of Political Consultants and on the board of the Chicago Area Public Affairs Group, of which she is a past president. She was also a member of the Public Affairs Committee of the U.S. Chamber of Commerce. In 1979, she received the Award

for Excellence in Serving Corporate Public Affairs from the National Association of Manufacturers.

A native of St. Louis, Commissioner Elliott graduated from the University of Illinois. She also completed Northwestern University's Medical Association Management Executive Program and is a Certified Association Executive.

John Warren McGarry

April 30, 1995

First appointed to the Commission in 1978, Commissioner McGarry was reappointed in 1983 and 1989. He served as FEC Chairman in 1991, 1985 and 1981. Before his 1978 Commission appointment, Commissioner McGarry served as special counsel on elections to the House Administration Committee. He previously combined private law practice with service as chief counsel to the House Special Committee to Investigate Campaign Expenditures, a special committee established by Congress every election year through 1972. Before his work with Congress, Commissioner McGarry was the Massachusetts assistant attorney general.

After graduating cum laude from Holy Cross College, Commissioner McGarry did graduate work at Boston University and earned a J.D. degree from Georgetown University Law School.

Scott E. Thomas

April 30, 1997

Mr. Thomas was appointed to the Commission in 1986 and reappointed in 1991. He was the 1993 Chairman, having earlier been Chairman in 1987. He previously served as executive assistant to former Commissioner Thomas E. Harris and succeeded him as Commissioner. Joining the FEC as a legal intern in 1975, Mr. Thomas eventually became an Assistant General Counsel for Enforcement.

A Wyoming native, Mr. Thomas graduated from Stanford University and holds a J.D. degree from Georgetown University Law Center. He is a member of the District of Columbia bar.

Statutory Officers

John C. Surina, Staff Director

Before joining the Commission in 1983, Mr. Surina was assistant managing director of the Interstate Commerce Commission, where he was detailed to the "Reform 88" program at the Office of Management and Budget. In that role, he worked on projects to reform administrative management within the federal government. He was also an expert-consultant to the Office of Control and Operations, EOP-Cost of Living Council-Pay Board and on the technical staff of the Computer Sciences Corporation. During his Army service, Mr. Surina was executive officer of the Special Security Office, where he supported senior U.S. delegates to NATO's civil headquarters in Brussels. Mr. Surina served as 1991 chairman of the Council on Government and Ethics Laws (COGEL).

A native of Alexandria, Virginia, Mr. Surina holds a degree in Foreign Service from Georgetown University. He also attended East Carolina University and American University.

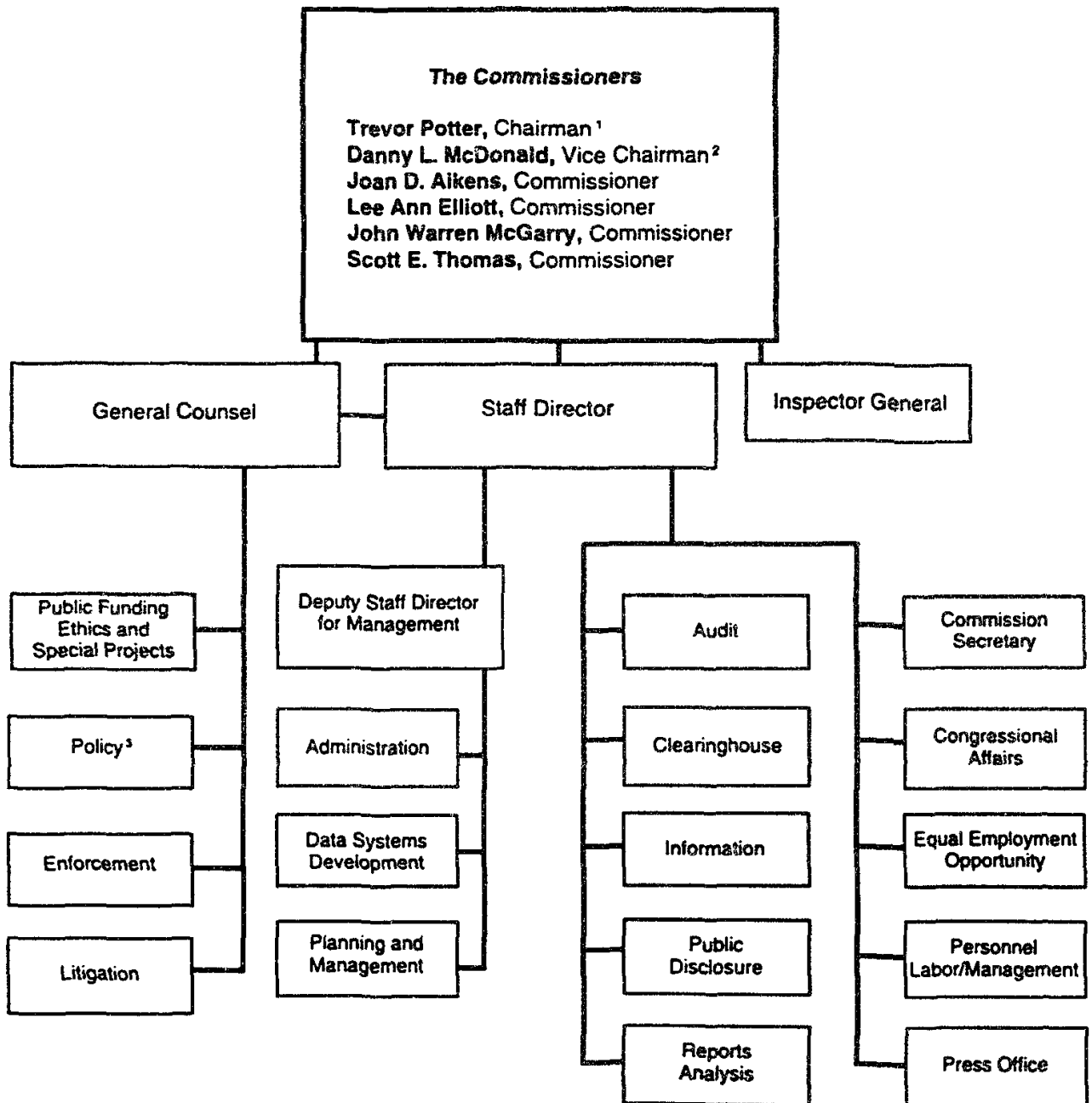
Lawrence M. Noble, General Counsel

Mr. Noble became General Counsel in 1987, after serving as Acting General Counsel. He joined the Commission in 1977, becoming the Deputy General Counsel in 1983. He previously served as Assistant General Counsel for Litigation and as a litigation attorney. Before his FEC service, he was an attorney with the Aviation Consumers Action Project.

A native of New York, Mr. Noble holds a degree in Political Science from Syracuse University and a J.D. degree from the National Law Center at George Washington University. He is a member of the bars for the U.S. Supreme Court, the U.S. Court of Appeals for the D.C. Circuit and the District of Columbia. He is also a member of the American and District of Columbia Bar Associations.

Appendix 3 FEC Organization Chart

83



¹ Danny L. McDonald was elected 1995 Chairman.

² Lee Ann Elliott was elected 1995 Vice Chairman.

³ Policy covers regulations, advisory opinions, legal review and administrative law.

29006

29-D

Political Finance & Lobby Reporter

VOLUME XVI, NO. 20

October 20, 1995

INSIDE THIS ISSUE:

- 3 Exclusive chart: Labor member gifts to union PACs
- 5 Federal grand jury, House subcommittee are probing USDA political fundraising
- 6 SEC looking at Fanjul brothers' political gifts
- 10 BTB: Most anti-PAC lawmakers are busy raising PAC funds for their re-elections

FEC Warning: Taxpayers not generous, presidential funds may be running low

Even though Congress tripled the amount that each taxpayer can invest in presidential campaigns, it still might not be enough to generate enough cash for the crop of 1996 candidates, the Federal Election Commission is saying in a familiar-sounding warning.

While it has campaign finance reformers gnashing their teeth, it is arming the

(Continued on Page 5)

"Simply stated, Clinton 'cooked the books' by diverting contributions solicited for the primary election. By not using these funds to retire debt, Clinton was able to wrongfully secure millions in additional public funds."

—Alan Gottlieb
Anti-Clinton conservative

29007

29-E

Presidential campaign funds seen in short supply as 1996 opens

(From Page 1)

program's detractors with new evidence that taxpayers don't want their tax dollars used by political candidates.

Only 17.5% of taxpayers affirmatively checked the box on their 1994 federal tax returns, well below the 27.8% high mark that was achieved in 1980 and has steadily eroded in subsequent years.

Four factors are seen conspiring against the funding program for the coming presidential election:

- Declining taxpayer participation (even though the checkoff was tripled from \$1 to \$3 per taxpayer, it didn't triple the total amount of money that was raised);

- The high number of Republican candidates;

- The need to amass huge war chests for early primaries; and,

- Statutory requirements that money for party conventions and the major party general election candidates be set aside before any money can be disbursed to primary election candidates.

After putting aside \$24 million for the Democratic and Republican party conventions and \$125 million for the major party general election candidates, the Treasury will have an estimated \$22.5 million to distribute to the presidential hopefuls when the first disbursements are made in January..

Already, leading Republican contenders Bob Dole and Phil Gramm have raised enough to draw \$17.2 million in matching funds when the Treasury window opens, and

President Clinton will stand in line with a request for about \$11 million.

Reformers who pushed Congress to triple the check-off remain convinced that the presidential campaign fund suffers because taxpayers remain unaware of the program.

But the program's detractors see it differently. They note that when taxpayers are informed, they are even less likely to support it.

"Taxpayers who are smart enough to fill out a complicated federal tax return can't also be too dumb to answer a simple question," said Steve Stockmeyer, executive director of the National Association of Business PACs which opposes legislation that would extend taxpayer funding to congressional elections.

"Every April 15, people vote against it in overwhelming numbers. The program doesn't achieve its objectives of limiting spending and limiting interest groups. It's a fraud," Stockmeyer said.

In the event of a shortfall and pro-rated distribution of available funds, candidates can borrow money from commercial banks to make up the difference, using as collateral the availability to additional matching payments as the fund is replenished when taxpayers begin filing their 1995 returns.

Taxpayers who are smart enough to fill out a complicated federal tax return can't also be too dumb to answer a simple question.'

*Steve Stockmeyer, Executive Director
National Association of Business PACs*

Political Finance & Lobby Reporter

VOLUME XVII, Number 2

January 24, 1996

A timely note for President Clinton

Dear Mr. President:

Trevor Potter is back!

Mr. Potter, you will recall, resigned from the Federal Election Commission last October in order to accept a temporary position at your old school. Now he's finished his assignment at Oxford University and has taken up residence at his former place of business, the law firm of Wiley Rein & Fielding where his legal talents will presumably be lent to that firm's highly-regarded election law department.

This isn't meant to recommend that you or your campaign committee hire Mr. Potter or his firm to help smooth

out any legal difficulties which might arise in connection with your campaign for election to a second White House term. Or your previous one.

Quite the contrary, it is meant to remind you—in a somewhat startling way—that Mr. Potter's old FEC seat is still vacant! Since last October, Mr. Potter has been able to teach political science for a full semester, but you have been unable to find somebody to replace him.

Since his departure over three months ago, the FEC has been operating at less than full-strength with three Democrats and two Republicans. The law requires that the six-member

Commission cannot have more than three members of the same political party, so his replacement must be somebody who is not a Democrat.

Maybe you are simply unable to find a dependable Republican or a trustworthy Independent? Or, would it be more accurate to suggest that Mr. Potter's departure created a political imbalance that gave your party a 3-2 edge that you are not too anxious to relinquish. (There hasn't been much protest from liberal campaign finance reform groups over this, either, which you may have interpreted as an endorsement for the procrastination.) In

(Continued on Page 2)

29009

29-F

Presidential procrastination leaves election agency vacancies unfilled

(From Page 1)

any event, the delay is becoming an unfortunate perversion of the Federal Election Campaign Act's promise of fair, bipartisan and independent enforcement of its provisions.

While I'm on the subject, can I also remind you that the terms of two other FEC commissioners—Republican Joan Aikens and Democrat John Warren McGarry—expired last spring! For the last nine months, both have been awaiting word that you've decided either to renominate them to new terms or nominate other candidates for their jobs.

Under federal election law, both continue to serve until they or their successors are sworn into office. Since both Mrs. Aikens and Mr. McGarry are personally committed to their public service, there's no danger that your procrastination will hamper the Commission's ability to operate.

But keeping two of the Commissioners dangling at the end of a rope all this time will ultimately injure the FEC's ability to render decisions that will be publicly perceived as impartial,

independent efforts to carry out its statutory responsibilities.

There are several enforcement cases pending at the Commission involving your 1992 presidential campaign. It might be handy to keep a couple commissioners there who know they can be dumped onto the street if they offend you. But it, too, is a perversion at the expense of the American people who've been promised fair, bipartisan and independent enforcement of the election law's provisions. And even more so if the reason for delay is your own political comfort.

One final thing, Mr. President. I understand that former Utah Democratic Congresswoman Karen Shepherd has been promoting herself as a candidate for nomination to the FEC and, at the same time, saying the federal election law needs to be reformed. This has the unfortunate effect of saying that, if nominated and confirmed, Miss Shepherd would use her Commission seat to reform the law.

This may be a laudatory position for a legislator, but it is a dangerous one for a potential FEC commissioner

who must interpret and enforce the law as he or she believes it *does* require, not according to what one might believe it *ought* to require. Miss Shepherd received substantial financial support for her 1992 campaign from labor union-sponsored PACs. She voiced no complaint against the campaign finance system until her 1994 campaign when several of her former labor PAC supporters withheld their contributions to retaliate against her vote for the North American Free Trade Agreement.

If her NAFTA vote ultimately caused her to lose her seat in Congress, perhaps you owe Miss Shepherd a job somewhere in your administration. But isn't there something she could do for you in the White House?

Finally with respect to Miss Shepherd, if you nominate her for the Commission, please consider the impact which her presence will undoubtedly have on the enforcement case that will involve her rival in the 1992 and 1994 elections, Republican Rep. Enid Greene Waldholtz. Miss Shepherd's recusal on matters related to Mrs. Waldholtz could jeopardize the Commission's ability to obtain the four votes that are required to approve a motion.

Sincerely,

Edward Zuckerman

Post

IN THE LOOP

1/29/96

FEC Still Awaiting Full Lineup

President Clinton's State of the Union speech last week is in effect the kickoff of the 1996 presidential campaign — which could be the most expensive election ever.

So the Federal Election Commission will have its hands full keeping an eye on all the money, making sure it is properly raised and spent. One small problem: Three seats on the six-member commission have been open since last April. One is wide open and the other two have holdovers waiting to see if the politicians the FEC oversees will be nice enough to reappoint them.

The Center for Responsive Politics, an election watchdog group, says the nominations have been tied up somewhere between the White House and Congress.

"It's not in either of their interests to have a commission that can function . . . or ensure strong enforcement," says CRP director Elias Miller. "That's not to say that even if we had [all the] commissioners, we'd have strong enforcement."

The White House says it's moving to fill the seats soon. It has two names from Senate Majority Leader

Dole for two Republican seats. They are William B. "Basty" DePue, head of the South Carolina election commission who had been up for a prior opening, and Edwina Rogers, former general counsel to the National Republican Senatorial Committee.

For the Democratic opening, there's a possibility of one more six-year term for John W. McGarry, who's been there since 1978.

29011

29-G

POLITICS

2/4/96

Probe Lasts Longer Than Presidency

■ The government investigated George Bush's 1988 campaign for seven years, gathered four binders of evidence and determined he had accepted \$223,000 in illegal contributions—then concluded it was too late to penalize him.

Bush's campaign recently received a reprimand letter, the Associated Press said. Federal Election Commission records show. The campaign could have been fined up to \$446,000, or twice the illegal contributions, if the FEC decided it knowingly broke the

law. In the Dec. 11 letter, the commission urged the Bush campaign's lawyers to "take steps to ensure that this kind of activity does not occur in the future." Bush lost the presidency in 1992.

The FEC concluded that a court would have thrown out any penalty attempt since so much time had passed, spokeswoman Sharon Snyder told AP. Such federal cases generally are subject to a five-year statute of limitation.

A lawyer for Bush's campaign had a different explanation. He said the campaign had acted properly and the FEC dropped the matter because it didn't have a good case.

At issue was whether Bush's campaign accepted illegal contributions from the Republican National Committee and 18 state parties to pay for 16 trips in the summer of 1988. At the time, his campaign was nearly out of money, and because he had not yet been officially nominated, he could not spend the \$55.2 million in general election money.

29012

G.1

The Washington Post

AN INDEPENDENT NEWSPAPER

When Late Means Never

BIG NEWS: A presidential campaign, according to the Federal Election Commission, accepted \$233,000 in illegal contributions. But what happened? Absolutely nothing. You see, the campaign in question was George Bush's in 1988—you read that right, 1988—and the FEC concluded it was a little late to exact a penalty. The commission did, however, write a letter to the Bush campaign's lawyers last December urging them to "take steps that this kind of activity does not occur again in the future." It might have been nice if such a letter had arrived before, say, the 1992 campaign.

The Bush campaign, of course, says the FEC was slow to prove its case because Mr. Bush had done nothing wrong. At stake was whether state Republican parties and the Republican National Committee had improperly paid for 16 campaign trips in the summer of 1988. Mr. Bush's primary campaign was effectively out of money in this period, and he could not yet spend from his federally provided general-election campaign fund because he was not yet formally the Republican nominee. The state parties and the National Committee, illegally in the FEC's view, literally kept Mr. Bush on the road.

It can reasonably be argued that this case is hardly the biggest deal in the world, and leaving the old Bush campaign in peace is, at this point,

the right thing to do. What's bothersome about the case is what it shows about how cumbersome and inefficient the enforcement of the federal campaign law has been. Violating the law seems to carry a low risk. The more cases there are such as this one, the more a campaign manager under pressure will cut corners and cross lines. The number of violations will simply grow. The rules on the books will become more and more meaningless.

The FEC has taken some steps in recent years to speed up its handling of cases, and it has done so in the face of considerable hostility in Congress, whose members have a vested interest in lenient enforcement of the rules. What is needed above all is a speedier public adjudication of major complaints brought against campaigns. Campaigns can always appeal judgments, but the voters deserve some sense before they cast their ballots of whether candidates are broadly living within the law or not. FEC penalties assessed within a reasonable period after an election can have a modest effect on cheating. But the FEC needs to make more use of its capacity to make judgments and to provide the public with useful information while the campaign is still going on. That would provide candidates with a powerful incentive to live within the law.

29013

29-H

IN THE LOOP

A Leadership Whose Terms Have Expired

■ There was a poignant scene at the much-maligned Federal Election Commission yesterday. The annual ritual of electing a new chairman and vice chairman played out before a handful of employees—and no one mentioned the unmentionable.

No one noted that the terms of both new chairman, John Warren McGarry, a 74-year-old Democrat, and vice chairman, Joan Aikens, a 68-year-old Republican, expired more than a year ago. So their elections, dictated by the commission's policy of rotating the largely ceremonial positions, could be short-lived.

But then that would assume that either the White House or Congress is serious about their repeated pledges to enact campaign finance reform and focus on campaign finance issues. Maybe both parties could start working on this by filling the three openings on the six-member elections panel since early 1995, when Trevor Potter, a Republican, quit and the terms of Aiken and McGarry expired.

Aikens, a protege of former senator Hugh Scott (R-Pa.) has been on the commission since it was created in 1975 and McGarry, who worked for the late representative Wayne Hayes (D-Ohio) and chum of former speaker Thomas P. "Tip" O'Neill, has been there since 1978. Under the Watergate-era law that create the FEC, they get to hang around, at \$115,700 a year, until their replacements are named.

Well, there's no need to rush. A fourth member's term, that of Democrat Scott E. Thomas, expires in April.

29014

H.I

H-PC

IN THE LOOP

A Familiar Face for a Fresh Look

By Al Kamen

Washington Post Staff Writer

President Clinton, firing the first shot in a war with Congress over who is more serious about campaign finance reform, has finally nominated someone to fill a long-standing vacancy on the Federal Election Commission.

The Republicans didn't hear the salvo—neither did most anyone else—because the White House slipped the nomination in with a bunch of Cabinet picks and other folks sent up to the Senate on Jan. 7.

And the nominee, the new fresh blood to give renewed vigor and take a different look at campaign finance issues? Why, it's 74-year-old John Warren McGarry, renominated to another four-year term. McGarry has been there since 1978.

News of the little-noted move stunned the public interest crowd, which had been lobbying the White House to name new commissioners to the FEC.

"The president has been saying he was very serious about campaign finance reform," said Ann McBride, president of Common Cause. "One of his first tests was going to be who he nominated to the FEC. Well, he has flatly failed his first test."

She added: "What he has done has signaled that it's going to be business as usual at the FEC. The first signal is that he is going to renominate the people who have failed in their enforcement duties."

"It doesn't bode well," agreed Lisa Rosenberg, director of FEC Watch, a project of the Center for Responsive Politics.

With McGarry's nomination at the Senate, can the renomination of 68-year-old Republican Joan D. Alkana, who's been at the FEC since 1975, be far behind?

29015

29-I

SEPTEMBER 18, 1997

POLITICS

FEC Staff Faults GOP Spending

Federal Election Commission auditors and lawyers say the Republicans should reimburse the federal treasury \$3.7 million because of overspending for the 1996 Republican National Convention.

Under federal law, the two major parties receive full federal funding for their conventions—\$12.4 million in 1996—but cannot spend beyond that amount. However, cities and their host committees can pick up the tab for certain costs.

The FEC auditors said the GOP overspent its limit in San Diego because the city and its host committee paid for expenses such as television production that should have been paid by the official convention committee. They also said the RNC improperly picked up \$1.4 million of the cost of airing GOP-TV broadcasts from the convention.

RNC spokesman Mike Collins said that the party is confident the FEC commissioners will reject the staff recommendation. "This isn't a way to violate the spending cap on conventions. That's ludicrous," he said. "There's a zero chance this is going to be sustained."

—Ruth Marcus

I. 1

29016

Designed for impotence

Why the Federal Election Commission is a lap dog for the political class

The mouth-watering tip came anonymously to the Federal Election Commission in 1975: It accused Charlie Rose, a congressman from North Carolina, of greasing a local pol with a brand-new Cadillac. The newly created FEC looked into the charge and found it baseless, but that wasn't the end of the affair.

Rose's colleagues were furious that

the agency had even looked. "If you don't fire the employees involved," thundered Wayne Hays, a powerful House member, to the FEC's chairman, "I'll cut the guts out of your budget. You've got some bums down there you've either got to fire or you'll be out of business." The threats were more than bluster. Congress sliced the FEC's 1976 budget request by 25 percent. To avoid another Rose-like inqui-

ry, it banned the commission from following up tips that weren't signed and notarized. It was the first of many hostile reactions that the FEC provoked by trying to do its job.

Congress created the FEC to enforce the Federal Election Campaign Act of 1974. Today that law—and the FEC itself—seem woefully inadequate. Neither was a deterrent to illegal and irregular contributions to Democrats from convicted drug dealers and foreign arms merchants. As Republicans prepare separate House and Senate probes, the inadequacies of the FEC as a campaign watchdog will be laid bare in coming months. But it's not as if these problems are new. They have been plain for years.

Americans now think of campaign finance as institutionalized corruption. It is the rare politician who can win or hold office without selling access and influence. The Federal Election Commission isn't the prime culprit—that role is filled by lobbies that expect a return on their donations and politicians who shake them down. But the FEC's story is crucial to explaining how the system developed—and why it will be difficult to change.

Toothless. When it comes to disclosing how much politicians spend and raise, and from whom, the FEC works quickly and efficiently. Its data form the basis for most of what the public knows about campaign finance. The Democrats' "Asia-gate" scandals, for example, began with an FEC list of party donors. Beyond collecting information, the agency makes it public via press releases, online databases and a reference room in Washington.

But the FEC is much less successful in its role as a cam-

MONEY BAGS: "In the last campaign, people essentially did whatever they wanted, because they knew they'd get away with it.

Millions of dollars were changing hands, and the FEC couldn't and wouldn't do anything."

Don Simon, executive vice president, Common Cause



U.S. NEWS

campaign cop—sniffing out and punishing candidates who break the law. Campaigns routinely exceed spending limits and accept illegal money, knowing that any FEC punishment would be mild (only fines—no jail terms) and very slow in coming.

The agency's torpor is legendary in political circles. Last August, it dismissed charges that Pat Robertson's 1988 presidential campaign had improperly accepted \$1.7 million in free air travel from the Christian Broadcasting Network. Weakness in the evidence was not the problem. The FEC concluded that the charges would be thrown out of court as too old.

The FEC isn't lazy or inept (the staff is esteemed). It is hampered by its very design. The agency was born of embarrassment, at a time when exposure of slush funds, corporate donations and payoffs in the Nixon administration had cast a pall over the whole federal government.

But, while creating the illusion of reform, Congress made the FEC too weak to enforce the law. The agency can't conduct random audits or issue injunctions to stop violations in progress. Starting even a small investigation requires the votes of four of the FEC's six commissioners, as does every step in an inquiry. Defendants can appeal at every turn. If the agency finds a violation, even then its hands are tied: For 30 days the law requires the FEC to ask nicely for a fine, using "informal methods of conference, conciliation, and persuasion."

Delay, delay. To enforce a penalty, the agency has to take a violator to court—and endure more delays. The sanction against the campaign of former President George Bush for allegedly accepting \$223,000 in illegal contributions in 1988 was a letter asking that his lawyers "take steps that this kind of activity does not occur in the future." The letter came nearly three years after Bush left office.

For any campaign, there is an incentive to drag out the process. After all,

even if a fine is levied, the infraction will seem like a distant memory to the public. And candidates know that the watchdog has only gums. "It has no teeth, it's slow and it's cumbersome," says an aide to a top Republican senator. "And members like it that way."

When the FEC gets too tough, members have a way of striking back. For example, Congress outlawed the use of campaign funds for personal items—country club memberships, designer clothes and the like. But when the FEC wrote rules implementing the restric-

compared with a real \$800 million in 1976—its budget seems paltry. The independent counsels investigating the Clinton administration alone had spent more than \$25 million as of the end of March 1996.

"Over the years," says Tony Coelho, a former Democratic representative and formidable fund-raiser, "there's basically been an attempt on the part of people to try to make the FEC non-effective by withholding money. And they succeeded to a great extent." The staff is bone thin: The FEC has only two investigators to cover its thousands of cases; its lawyers are saddled with as many as a dozen cases each. The most important work rarely receives the attention it requires.

The FEC's leadership structure is a cozy deal, too. Congress controls who becomes a commissioner: The president merely rubber-stamps recommendations from Capitol Hill. That means commissioners owe their \$115,700-a-year jobs to party machinery. When the regulated control the regulators, oversight goes soft.

Consider Vice Chairman Joan Aikens, once an active Republican in Pennsylvania state politics. Asked if she thinks there is a money-in-politics problem, Aikens says, "I think there is a perception of a money-in-politics problem—put forth by the press and [by] agencies like Common Cause and the Center for Responsive Politics." Aikens also observes, "It seems to me that we ought

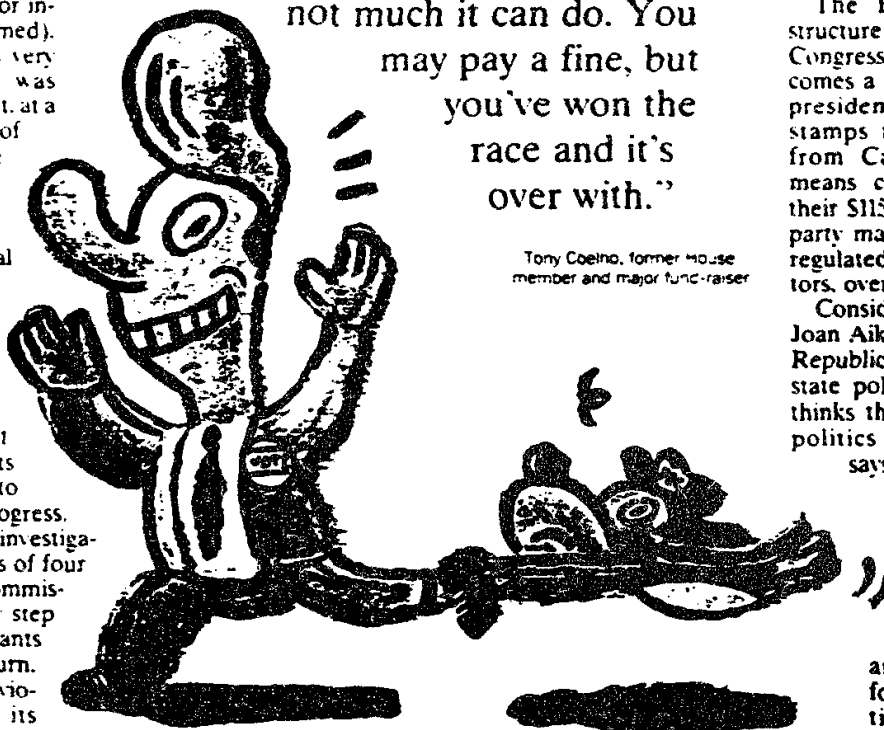
to spend enough money to get good people elected... and if that takes \$13 million for a Senate candidate, then so be it." Aikens's logic is peculiar. High-cost campaigns lead to mudfests more often than to enlightened debate. And the more money that must be raised, the more potential there is for corruption.

The Democrats on the commission often favor stricter regulation than do Aikens and her fellow Republican Lee Ann Elliot, who came to the FEC from the American Medical Association's political action committee. But partisan

SOME WATCHDOG: "There's no fear of the FEC because by the time it gets there, elections are over and there's

not much it can do. You may pay a fine, but you've won the race and it's over with."

Tony Coelho, former House member and major fund-raiser



tions, the same Congress was outraged. The House rescinded nearly \$3 million in already appropriated funds. And House Appropriations Chairman Bob Livingston sent a team of investigators to comb through the FEC for weeks, looking for areas to cut even deeper.

An excess of funds, however, has never been the FEC's problem. Its fiscal 1997 budget is \$28.16 million, nearly a tenth of which is reserved for upgrading computers. Considering the amount of campaign cash the agency is chartered to keep track of—an estimated \$2 billion was spent on the 1996 elections,

■ U.S. NEWS

splits have prevented action on a number of high-profile cases. No more than three commissioners can belong to one party, so it's impossible to muster a majority without winning a vote from the other side. Three Democrats, but no Republicans, voted to pursue a case against the National Republican Senatorial Committee for overspending in the 1988 campaign of former Sen. Conrad Burns of Montana. Three Republicans, but no Democrats, voted to rescind a full \$4.1 million in public funds from Clinton's 1992 campaign. Ironically, the highest-profile cases are the least likely to receive action. Former Clinton consultant Dick Morris has confirmed that President Clinton and his advisers coordinated commercials paid for by the Democratic National Committee—an apparent violation of the law. But few expect the FEC to follow up.

Finding four votes to take action has been especially difficult since October 1995, when Republican commissioner Trevor Potter stepped down. Potter was acclaimed for his aggressiveness: he helped launch regulations against personal use by politicians of campaign funds and pushed for a lawsuit against Newt Gingrich's GO-PAC for supporting federal candidates (including Gingrich) when it wasn't registered to do so. But Potter quit in frustration after ideas he favored repeatedly failed to become policy. Meanwhile, Congress and President Clinton have yet to name a successor and the chance of getting four votes for any enforcement action is further reduced.

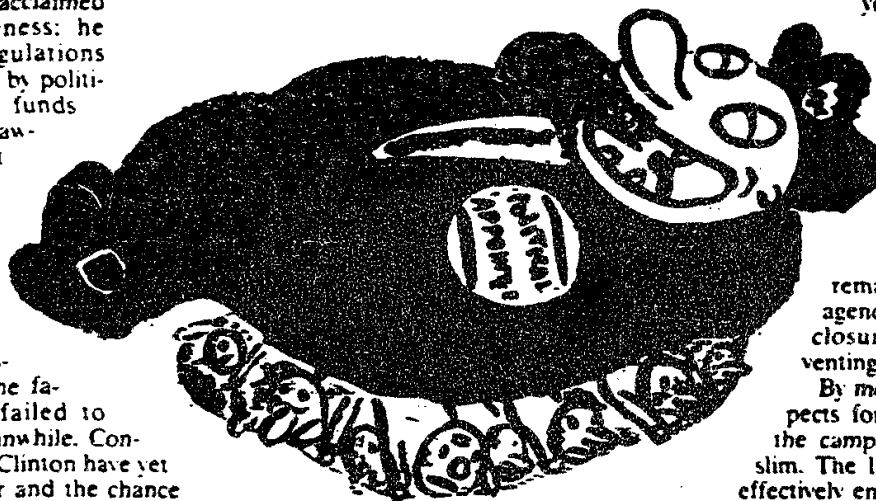
Court clash. The FEC has enough trouble with congressmen undermining their own laws, commissioners who don't believe there is a money-in-politics problem, and a process that is painfully slow to fill empty seats on the commission. But the most basic challenge to the FEC, and to election regulations as a whole, has come from the federal courts. While the law was still in its infancy, the Supreme Court, in *Buckley v. Valeo*, voided large chunks of it in 1976. The ruling declared that a limit on cam-

paign spending is equivalent to a limit on free speech, and it laid the basis for decades of rulings against FEC restrictions that would have reined in (and forced disclosure of) both spending and giving.

Since then, courts have relentlessly nipped away at the agency's already limited authority. Take the AFL-CIO's \$35 million advertising barrage in 1996. Because it disparaged specific Republican candidates, advanced the agenda of their Democratic opponents and peaked right before Election Day, you might expect that spending for the ads would be considered campaign spend-

APPOINTEES: "The commissioners are appointed by congressional leaders. You get political payoffs, and so you get lower-quality people. Some of them don't believe in the law they're supposed to be enforcing."

Senate staffer who asked for anonymity



ing and therefore subject to FEC rules.

But under *Buckley*, the FEC can act only if the ads expressly advocate a candidate's election or defeat. And in a series of subsequent cases, the label "express advocacy" has been limited to material that uses a list of obvious phrases (such as "vote for" or "vote against"). In 1994, for example, a federal trial court in New York found that a mass mailing asking readers to return a "special election-year ANTI-WAR ballot" with "your No vote for President

Reagan" could not be considered express advocacy.

One court, the 9th Circuit Court of Appeals, has run against the vein. It defined express advocacy as something a reasonable person would see as pushing for a candidate's election or defeat. But the Supreme Court is moving in the opposite direction. In a ruling last summer, four justices signaled their interest in repealing restrictions altogether. That decision, *Colorado Republican Federal Campaign Committee v. the FEC*, allowed political parties to make independent expenditures; in other words, it said that party bosses could

spend "independently" to support the candidates produced by the same party. Coming only months before an election, the case burst the floodgates: Both parties, particularly the Republicans, sent swarms of money to buttress the campaigns of congressional candidates.

The talking dog? No one knows the FEC's frustrations better than Lawrence Noble, the agency's general counsel. He defends the FEC like this: "Say you are walking down the street and you see a talking dog. Do you criticize its grammar, or are you amazed it talks at all?" Before harping on the FEC's inadequacies, Noble says, think about how remarkable it is that the agency exists—forcing disclosure and perhaps preventing even worse abuses.

By most accounts, the prospects for a true tightening of the campaign finance laws are slim. The likelihood they will be effectively enforced is slimmer still. The FEC has fought extinction since it was created. It has been stymied by Congress, starved of funds and saddled with weak commissioners. It faces courts that believe campaign regulations are a threat to free speech—and prefer to protect the latter. For now, it struggles on. But for a true measure of its impotence, consider this piece of black-letter law: No corporation or labor union can give anything of value to influence a federal election. Then consider the reality. ■

By JOSHUA WOLF SHENK

CLINTON
FOR
PRESIDENT
COMMITTEE

November 12, 1991

John Warren McGarry, Chairman
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Dear Chairman McGarry:

As a candidate seeking to become eligible to receive Presidential primary funds, I certify and agree to the following provisions:

- I. I am seeking the nomination of the Democratic Party for election to the Office of President in more than one State. I and/or my authorized committee have received matchable contributions which in the aggregate exceed \$5,000 from residents of each of at least twenty States which with respect to any one person do not exceed \$250.00.
- II. I and/or my authorized committee have not incurred and will not incur qualified campaign expenses in excess of the expenditure limitations prescribed by 26 U.S.C. §9035 and 11 C.F.R. Part 9035.
- III. I acknowledge that I have the burden of proving that disbursements made by me, and any of my authorized committee or agents are qualified campaign expenses as defined at 11 C.F.R. 9032.9.
- IV. I and my authorized committee will comply with the documentation requirements set forth in 11 C.F.R. §9033.11.
- V. Upon the request of the Commission, I will supply an explanation of the connection between any disbursement made by me or my authorized committee and the campaign as prescribed by 11 C.F.R. §9033.1(b)(3).
- VI. In accordance with 11 C.F.R. §9033.1(b)(4), I and my authorized committee agree to keep and furnish to the Commission all documentation for matching fund submissions, any books, records (including bank records for all accounts) and supporting documentation and other information that the Commission may request.

29020

P.O. Box 615 • Little Rock, Arkansas 72203
Telephone (501) 372-1992 • FAX (501) 372-2292

Paid for by the Clinton for President Committee
Contributions to the Clinton for President Committee are not tax deductible

29-K

- VII. As provided at 11 C.F.R. §9033.1(b)(5), I and my authorized committee agree to keep and furnish to the Commission all documentation relating to disbursements and receipts including any books, records (including bank records for all accounts), and documentation required by this section including those required to be maintained under 11 C.F.R. 9033.11, and other information that the Commission may request. The records provided for the post-primary audit shall also include production of magnetic media containing all information required to be maintained on my authorized committee receipts and disbursements, if my authorized committee maintains its records on computer. Upon request by the Commission, documentation explaining the computer software capabilities shall also be provided. The production of all computerized information shall be in conformance with 11 C.F.R. §9033.12.
- VIII. I and my authorized committee will obtain and furnish to the Commission upon request all documentation relating to funds received and disbursements made on my behalf by other political committees and organizations associated with me.
- IX. In accordance with 26 U.S.C. §9038 and 11 C.F.R. §9033.1(b)(7), I and my authorized committee shall permit an audit and examination pursuant to 11 C.F.R. Part 9038 of all receipts and disbursements, including those made by me, all authorized committees and any agent or person authorized to make expenditures on my behalf or on behalf of my authorized committees. I and my authorized committee shall facilitate the audit by making available in one central location, office space, records and such personnel as are necessary to conduct the audit and examination, and shall pay any amounts required to be repaid under 11 C.F.R. Parts 9038 and 9039.
- X. Pursuant to 11 C.F.R. §9033.1(b)(8), the person listed below is entitled to receive matching fund payments on my behalf which will be deposited into the listed depository which I have designated as the campaign depository. Any change in the information required by this paragraph shall not be effective until submitted to the Commission in a letter signed by me or the Treasurer of my authorized principal campaign committee.

Chairman
Federal Election Commission
Page 3


Name of person: Bruce Lindsey
Mailing Address: Clinton for President Committee
P.O. Box 615
Little Rock, Arkansas 72203

Designated Depository: Worthen National Bank

Address: 200 W. Capitol Avenue
Little Rock, AK 72201

- XI. Pursuant to 11 C.F.R. §9033.1(b)(9), (10), and (11), I and my authorized committee will: (A) prepare matching fund submissions in accordance with the Federal Election Commission's Guideline for Presentation in Good Order, including the provision of any magnetic media pertaining to the matching fund submissions and which conforms to the requirements specified at 11 C.F.R. §9033.12; (B) comply with the applicable requirements of 2 U.S.C. §431 et seq.; and the Commission's regulations at 11 C.F.R. Parts 100-115, and 9031-9039; (C) pay civil penalties included in a conciliation agreement imposed under 2 U.S.C. §437g against myself, any of my authorized committees or any agent thereof.

Sincerely,


Governor Bill Clinton

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(including all contributions dated on or before that date whether or not submitted for matching; currency; balances on deposit in banks, savings and loan institutions, and other depository institutions; traveller's checks; certificates of deposit; treasury bills; and any other committee investments valued at fair market value);

(ii) The fair market value of capital assets and other assets on hand; and

(iii) Amounts owed to the campaign in the form of credits, refunds of deposits, returns, receivables, or rebates of qualified campaign expenses; or a commercially reasonable amount based on the collectibility of those credits, returns, receivables or rebates.

(b) The amount submitted as the total of outstanding campaign obligations under paragraph (a)(1) of this section shall not include any accounts payable for nonqualified campaign expenses nor any amounts determined or anticipated to be required as a repayment under 11 CFR part 9038 or any amounts paid to secure a surety bond under 11 CFR 9038.5(c).

(c)(1) *Capital assets.* For purposes of this section, the term *capital asset* means any property used in the operation of the campaign whose purchase price exceeded \$2000 when acquired by the campaign. Property that must be valued as capital assets under this section includes, but is not limited to, office equipment, furniture, vehicles and fixtures acquired for use in the operation of the candidate's campaign, but does not include property defined as *other assets* under 11 CFR 9034.5(c)(2). A list of all capital assets shall be maintained by the Committee in accordance with 11 CFR 9033.11(d). The fair market value of capital assets may be considered to be the total original cost of such items when acquired less 40%, to account for depreciation, except that items acquired after the date of ineligibility must be valued at their fair market value on the date acquired. If the candidate wishes to claim a higher depreciation percentage for an item, he or she must list that capital asset on the statement separately and demonstrate, through documentation, the fair market value of each such asset.

(2) *Other assets.* The term *other assets* means any property acquired by the campaign for use in raising funds or as collateral for campaign loans. *Other assets* must be included on the candidate's statement of net outstanding campaign obligations if the aggregate value of such assets exceeds \$5,000. The value of *other assets* shall be determined by the fair market value of each item on the candidate's date of ineligibility or on the date the item is acquired if acquired after the date of ineligibility. A list of other assets shall be maintained by the committee in accordance with 11 CFR 9033.11(d)(2).

(d) *Collectibility of accounts receivable.* If the committee determines that an account receivable of \$500 or more, including any credit, refund, return or rebate, is not collectible in whole or in part, the committee shall demonstrate through documentation that the determination was commercially reasonable. The documentation shall include records showing the original amount of the account receivable, copies of correspondence and memoranda of communications with the debtor showing attempts to collect the amount due, and an explanation of how the lesser amount or full writeoff was determined.

(e) Contributions received from joint fundraising activities conducted under 11 CFR 9034.8 may be used to pay a candidate's outstanding campaign obligations.

(1) Such contributions shall be deemed monies available to pay outstanding campaign obligations as of the date these funds are received by the fundraising representative committee and shall be included in the candidate's statement of net outstanding campaign obligations.

(2) The amount of money deemed available to pay a candidate's net outstanding campaign obligations will equal either—

(i) An amount calculated on the basis of the predetermined allocation formula, as adjusted for 2 U.S.C. 441a limitations; or

(ii) If a candidate receives an amount greater than that calculated under 11 CFR 9034.5(c)(2)(i), the amount actually received.

§ 9034.5 Net outstanding campaign obligations.

(a) Within 15 calendar days after the candidate's date of ineligibility, as determined under 11 CFR 9033.5, the candidate shall submit a statement of net outstanding campaign obligations. The candidate's net outstanding campaign obligations under this section equal the difference between paragraphs (a)(1) and (2) of this section:

(1) The total of all outstanding obligations for qualified campaign expenses as of the candidate's date of ineligibility as determined under 11 CFR 9033.5, plus estimated necessary winding down costs as defined under 11 CFR 9034.4(a)(3), less

(2) The total of:

(i) Cash on hand as of the close of business on the last day of eligibility

not permissible under the Act. See 11 CFR parts 110, 114, and 115.

§ 104.13 Disclosure of receipt and consumption of in-kind contributions.

(a) (1) The amount of an in-kind contribution shall be equal to the usual and normal value on the date received. Each in-kind contribution shall be reported as a contribution in accordance with 11 CFR 104.3(a).

(2) Except for items noted in 11 CFR 104.13(b), each in-kind contribution shall also be reported as an expenditure at the same usual and normal value and reported on the appropriate expenditure schedule, in accordance with 11 CFR 104.3(b).

(b) Contributions of stocks, bonds, art objects, and other similar items to be liquidated shall be reported as follows:

(1) If the item has not been liquidated at the close of a reporting period, the committee shall record as a memo entry (not as cash) the item's fair market value on the date received, including the name and mailing address (and, where in excess of \$200, the occupation and name of employer) of the contributor.

(2) When the item is sold, the committee shall record the proceeds. It shall also report the (i) name and mailing address (and, where in excess of \$200, the occupation and name of employer) of the purchaser, if purchased directly from the candidate or committee (as the purchaser shall be considered to have made a contribution to the committee), and (ii) the identification of the original contributor.

§ 104.14 Formal requirements regarding reports and statements.

(a) Each individual having the responsibility to file a designation, report or statement required under this subchapter shall sign the original designation, report or statement.

(b) Each political committee or other person required to file any report or statement under this subchapter shall maintain all records relevant to such reports or statements as follows:

(1) Maintain records, including bank records, with respect to the matters re-

quired to be reported, including vouchers, worksheets, receipts, bills and accounts, which shall provide in sufficient detail the necessary information and data from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness;

(2) Preserve a copy of each report or statement required to be filed under 11 CFR parts 102 and 104;

(3) Keep all reports required to be preserved under 11 CFR 104.14 available for audit, inspection, or examination by the Commission or its authorized representative(s) for a period of not less than 3 years after the report or statement is filed. (See 11 CFR 102.9(c) for requirements relating to preservation of records and accounts.)

(c) Acknowledgements by the Commission, the Clerk of the House, or the Secretary of the Senate, of the receipt of Statements of Organization, reports or other statements filed under 11 CFR parts 101, 102 and 104 are intended solely to inform the person filing the report of its receipt and neither the acknowledgement nor the acceptance of a report or statement shall constitute express or implied approval, or in any manner indicate that the contents of any report or statement fulfill the filing or other requirements of the Act or of these regulations.

(d) Each treasurer of a political committee, and any other person required to file any report or statement under these regulations and under the Act, shall be personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained in it.

§ 104.15 Sale or use restriction (2 U.S.C. § 304a(d)).

(a) Any information copied, or otherwise obtained, from any report or statement, or any copy, reproduction, or publication thereof, filed with the Commission, Clerk of the House, Secretary of the Senate, or any Secretary of State or other equivalent State officer, shall not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose, except that the name and ad-

§ 9002.3 Allowable contributions.

(a) *Legal and accounting compliance fund—major party candidates—*
(1) *Sources.* (i) A major party candidate may accept contributions to a legal and accounting compliance fund if such contributions are received and disbursed in accordance with this section. A legal and accounting compliance fund may be established by such

candidate prior to being nominated or selected as the candidate of a political party for the office of President or Vice President of the United States.

(A) All solicitations for contributions to this fund shall clearly state that such contributions are being solicited for this fund.

(B) Contributions to this fund shall be subject to the limitations and prohibitions of 11 CFR parts 110, 114, and 115.

(ii) Funds remaining in the primary election account of a candidate, which funds are in excess of any amount required to be reimbursed to the Presidential Primary Matching Payment Account under 11 CFR 9008.2, may be transferred to the legal and accounting compliance fund without regard to the contribution limitations of 11 CFR part 110 and used for any purpose permitted under this section.

(iii) Contributions that are made after the beginning of the expenditure report period but which are designated for the primary election, and contributions that exceed the contributor's limit for the primary election, may be deposited in the legal and accounting compliance fund if the candidate obtains the contributor's redesignation, or a redistribution to a joint contributor, in accordance with 11 CFR 110.1. The contributions so received and deposited shall be subject to the contribution limitations applicable for the general election, pursuant to 11 CFR 110.1(b)(2)(i).

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"Plain meaning" cases usually stem from instances where reporters and editors could have spared themselves legal headaches by being more precise. As one editor is fond of saying, "If you're going to defame someone, make sure you do it right. Or if you're going to crucify someone, make sure the nails are straight." In the example above, if the editors thought they had proof that the former governor had engaged in shady dealings, they should have flatly said so.

§ 4.11 TRUE FACTS, DEFAMATORY IMPLICATIONS

Is it possible for all the facts in a report to be accurate but to still amount to libel? Apparently so. As one court said, "The individual sentences or phrases of a publication taken separately may not reveal any defamatory thrust but, like the pieces of a jigsaw puzzle, taken together a picture of libel may yet be revealed."¹²¹ Just as words that are defamatory standing alone can become nonactionable in their overall context, some courts have held that words innocent by themselves can be tied together to create a defamatory whole.¹²²

¹²¹*Synanon Found., Inc. v. Time, Inc.*, 5 Media L. Rep. (BNA) 1924, 1928 (Cal. Super. Ct. 1979); *see also* *Forsher v. Bugliosi*, 26 Cal. 3d 792, 608 P.2d 716, 163 Cal. Rptr. 628 (1980). *But cf.* *Mihalik v. Duprey*, 11 Mass. App. Ct. 602, 417 N.E.2d 1238 (1981); *Cohn v. National Broadcasting Co.*, 67 A.D.2d 140, 414 N.Y.S.2d 906 (1979), *aff'd*, 50 N.Y.2d 885, 408 N.E.2d 672, 430 N.Y.S.2d 265, *cert. denied*, 449 U.S. 1022; *Pierce v. Capital Cities Communications, Inc.*, 576 F.2d 495, 503 (3d Cir.), *cert. denied*, 439 U.S. 861 (1978).

¹²²*Salomone v. Macmillan Publishing Co.*, 97 Misc. 2d 346, 351, 411 N.Y.S.2d 105, 109 (1978), *rev'd on other grounds*, 77 A.D.2d 501, 429 N.Y.S.2d 441 (1980). Even where courts recognize defamation by implication, plaintiffs face significant obstacles. *See, e.g.* *Chapin v. Knight-Ridder, Inc.*, 993 F.2d 1087 (4th Cir. 1993) (defamatory implication must be present in plain and natural meaning of words, and language must suggest author intended or endorsed inference); *Buckley v. McGraw-Hill, Inc.*, 782 F. Supp. 1042 (W.D. Pa. 1991) (court must examine statements to determine if they are capable of defamatory implication urged by plaintiff), *aff'd*, 968 F.2d 12 (3d Cir. 1992); *Locricchio v. Evening News Ass'n*, 438 Mich. 84, 476 N.W.2d 112 (1991) (plaintiff must identify and prove material omissions that would have rendered articles non-defamatory), *cert. denied*, 112 S. Ct. 1267 (1992);

The Tennessee Supreme Court agreed with the *Memphis Press-Scimitar* that all the facts in the following routine police story were true:

WOMAN HURT BY GUNSHOT

Mrs. Ruth A. Nichols, 164 Eastview, was treated at St. Joseph Hospital for a bullet wound in her arm after a shooting at her home, police said.

A 40-year-old woman was held by police in connection with the shooting with a .22 rifle. Police said a shot was also fired at the suspect's husband.

Officers said the incident took place Thursday night after the suspect arrived at the Nichols home and found her husband there with Mrs. Nichols.

Witnesses said the suspect first fired a shot at her husband and then at Mrs. Nichols, striking her in the arm, police reported.

No charges had been placed.

But there was a problem. Due to incomplete police records, the report neglected to mention that Mr. Nichols and two neighbors were also at the house during the shooting and that Mr. Nichols had

Deutsch v. Birmingham Post Co., 603 So.2d 910 (Ala. 1992) (plaintiff must show "probably false factual connotations"), *cert. denied*, 113 S. Ct. 976 (1993); *Livingston v. Murray*, 417 Pa. Super. 202, 612 A.2d 443 (1992) (defamation by innuendo is not actionable where defamatory meaning can be obtained only by tortured and unreasonable construction), *appeal denied*, 617 A.2d 1275 (Pa. 1992); *Miyata v. Bungei Shunju, Ltd.*, 19 Media L. Rep. (BNA) 1400 (Cal. Ct. App. 1991) (defamation may be implied, but must be apparent from language used or plaintiff must plead and prove necessary extrinsic facts); *see also* C. Thomas Dienes & Lee Levine, *Implied Libel, Defamatory Meaning, and State of Mind: The Promise of New York Times Co. v. Sullivan*, 78 Iowa L. Rev. 237 (1993). *But see* *Price v. Viking Penguin, Inc.*, 881 F.2d 1426, 1432 (8th Cir. 1989) ("We do not recognize defamation by implication"), *cert. denied*, 493 U.S. 1036 (1990); *Diesen v. Hessburg*, 455 N.W.2d 446 (Minn. 1990) (Minnesota does not recognize defamation by implication in suit by public figure), *cert. denied*, 498 U.S. 1119 (1991); *Kortz v. Midwest Communications, Inc.*, 20 Media L. Rep. (BNA) 1860 (Minn. Dist. Ct. 1992) (Minnesota does not recognize defamation by implication in suit by private figure).

Section 3.

Line Instructions For Form 1040

Name, Address, and Social Security Number (SSN)

Use the Label

Using the peel-off label in this booklet will speed the processing of your return. It also prevents common errors that can delay refunds or result in unnecessary notices. Attach the label **after** you have finished your return. Cross out any errors and print the correct information. Add any missing items such as your apartment number.

Caution: If the label is for a joint return and the SSNs are not listed in the same order as the first names, please show the SSNs in the correct order.

Address Change

If the address on your peel-off label is not your current address, cross out your old address and print your new address. If you plan to move after filing your return, see page 32.

Name Change

If you changed your name, be sure to report the change to your local Social Security Administration office **before** filing your return. This prevents delays in processing your return and issuing refunds. It also safeguards your future social security benefits. If you received a peel-off label, cross out your former name and print your new name.

What If I Do Not Have a Label?

Print or type the information, including your SSN(s), in the spaces provided. If you are married filing a separate return, enter your husband's or wife's name on line 3 instead of below your name.

Social Security Number (SSN)

An incorrect or missing SSN may increase your tax or reduce your refund. To apply for an SSN, get Form SS-5 from your local Social Security Administration (SSA) office or call the SSA at 1-800-772-1213. Fill in Form SS-5 and return it to the SSA. It usually takes about 2 weeks to get an SSN. Check that your SSN is correct on your Forms W-2 and 1099. See page 32 for more details.

Nonresident Alien Spouse

If your spouse is a nonresident alien and you file a joint or separate return, your spouse must have either an SSN or an Individual Taxpayer Identification Number (ITIN). If your spouse is not eligible to obtain an SSN, he or she can file Form W-7 with the IRS to apply for an ITIN. See page 6.

P.O. Box

Enter your box number **only** if your post office does not deliver mail to your home.

Foreign Address

Enter the information in the following order: city, province or state, postal code, and the name of the country. Please do not abbreviate the country name.

Death of a Taxpayer

See page 32.

Presidential Election Campaign Fund

This fund helps pay for Presidential election campaigns. The fund reduces candidates' dependence on large contributions from individuals and groups and places candidates on an equal financial footing in the general election. If you want \$3 to go to this fund, check the "Yes" box. If you are filing a joint return, your spouse may also have \$3 go to the fund. If you check "Yes," your tax or refund will not change.

Filing Status

Check **only** the filing status that applies to you. The ones that will usually give you the lowest tax are listed last.

- Married filing separately
- Single
- Head of household
- Married filing jointly or Qualifying widow(er) with dependent child

TIP

More than one filing status may apply to you. Choose the one that will give you the lowest tax.

Line 1

Single

You may check the box on line 1 if any of the following was true on December 31, 1998:

- You were never married, or
- You were legally separated, according to your state law, under a decree of divorce or separate maintenance, or
- You were widowed before January 1, 1996, and did not remarry in 1996.

Line 2

Married Filing Jointly

You may check the box on line 2 if any of the following is true:

- You were married as of December 31, 1996, even if you did not live with your spouse at the end of 1996, or
- Your spouse died in 1996 and you did not remarry in 1996, or
- Your spouse died in 1997 before filing a 1996 return. For details on filing the joint return, see Death of a Taxpayer on page 32.

A husband and wife may file a joint return even if only one had income or if they did not live together all year. However, both must sign the return and both are responsible. This means that if one spouse does not pay the tax due, the other may have to. If you file a joint return for 1996, you may not, after the due date for filing that return, amend it to file as married filing separately.

Nonresident Aliens and Dual-Status Aliens. You may be able to file a joint return. See Pub. 519, U.S. Tax Guide for Aliens, for details.

Line 3

Married Filing Separately

If you are married and file a separate return, you will usually pay more tax. You may want to figure your tax both ways (married filing jointly and married filing separately) to see which filing status is best for you. Generally, you report only your own income, exemptions, deductions, and credits. Different rules apply to people who live in community property states. See page 13.

TIP

You may be able to file as head of household if you had a child living with you and you lived apart from your spouse during the last 6 months of 1996. See Married Persons Who Live Apart on the next page.

Line 4

Head of Household

This filing status is for unmarried individuals who provide a home for certain other persons. (Some married persons who live apart may also qualify. See page 12.) You may check the box on line 4 **only** if you were unmarried or legally separated as of December 31, 1996, and either 1 below or 2 on page 12 apply to you.

1. You paid over half the cost of keeping up a home that was the main home for all of

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For the year Jan. 1–Dec. 31, 1997, or other tax year beginning:

1997, ending

1B

OMB No. 1545-0074

Label

(See instructions on page 10.)

Use the IRS label.

Otherwise, please print or type.

Presidential

Election Campaign (See page 10.)

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E

Your first name and initial

Last name

If a joint return, spouse's first name and initial

Last name

Home address (number and street). If you have a P.O. box, see page 10.

Apt. no.

City, county, state, and ZIP code. If you have a foreign address, see page 10.

Your social security number

Spouse's social security number

For help in finding line instructions, see pages 2 and 3 in the booklet.

Yes	No	Note: Checking "Yes" will not change your tax or reduce your refund.

Filing Status

Check only one box.

- 1 ☐ Single
- 2 ☐ Married filing joint return (even if only one had income)
- 3 ☐ Married filing separate return. Enter spouse's social security no. above and full name here. ▶
- 4 ☐ Head of household (with qualifying person). (See page 10.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶
- 5 ☐ Qualifying widow(er) with dependent child (year spouse died ▶ 19). (See page 10.)

Exemptions

If more than six dependents, see page 10.

6a ☐ Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a.b ☐ Spouse

c Dependents:

(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) No. of months lived in your home in 1997

No. of boxes checked on 6a and 6b

No. of your children on 6c who:

- lived with you
- did not live with you due to divorce or separation (see page 11)

Dependents on 6c not entered above

Add numbers entered on lines above ▶

d Total number of exemptions claimed

Income

Attach Copy B of your Forms W-2, W-2G, and 1099-R here.

If you did not get a W-2, see page 12.

Enclose but do not attach any payment. Also, please use Form 1040-V.

- 7 Wages, salaries, tips, etc. Attach Form(s) W-2.
- 8a Taxable interest. Attach Schedule B if required.
- b Tax-exempt interest. DO NOT include on line 8a.
- 9 Dividends. Attach Schedule B if required.
- 10 Taxable refunds, credits, or offsets of state and local income taxes (see page 12).
- 11 Alimony received.
- 12 Business income or (loss). Attach Schedule C or C-EZ.
- 13 Capital gain or (loss). Attach Schedule D.
- 14 Other gains or (losses). Attach Form 4797.
- 15a Total IRA distributions. 15a Taxable amount (see page 13)
- 16a Total pensions and annuities. 16a Taxable amount (see page 13)
- 17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E.
- 18 Farm income or (loss). Attach Schedule F.
- 19 Unemployment compensation.
- 20a Social security benefits. 20a Taxable amount (see page 14)
- 21 Other income. List type and amount—see page 15.

22 Add the amounts in the far right column for lines 7 through 21. This is your total income ▶

Adjusted Gross Income

If line 32 is under \$29,290 (under \$9,770 if a child did not live with you), see EIC inst. on page 21.

- 23 IRA deduction (see page 16).
- 24 Medical savings account deduction. Attach Form 8853.
- 25 Moving expenses. Attach Form 3903 or 3903-F.
- 26 One-half of self-employment tax. Attach Schedule SE.
- 27 Self-employed health insurance deduction (see page 17).
- 28 Keogh and self-employed SEP and SIMPLE plans.
- 29 Penalty on early withdrawal of savings.
- 30a Alimony paid b Recipient's SSN ▶
- 31 Add lines 23 through 30a.
- 32 Subtract line 31 from line 22. This is your adjusted gross income ▶

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reported by the Primary Committee when it had net outstanding campaign obligations. Attachment 3 at 90; see also, 11 C.F.R. § 110.1(b)(4)(i). Further, the Audit Division sampled contributions from the Primary Committee's final matching fund submission with those contributions that were designated as Compliance Fund contributions to determine whether these contribution checks had different payee or election designation information. Attachment 3 at 91. No difference was noted.^{16/} Id. Therefore, it is the view of this office that the contribution checks demonstrate that the contributors intended to give the contributions to the Primary Committee. Thus, the Office of General Counsel recommends that the Commission find reason to believe that the Clinton for President Committee, its treasurer, J.L. "Skip" Rutherford, William J. Clinton, the Clinton-Gore '92 General Election Compliance Fund, and J.L. "Skip" Rutherford, as Treasurer, violated 11 C.F.R. § 9003.3(a)(1).

The Primary Committee cannot apply the GELAC transfer and designation rules in a manner that will allow it to arbitrarily claim that certain contributions are matchable primary contributions^{17/} and reverse its position to increase its

^{16/} Although the Respondents contend that "the [a]uditors' contention that the funds transferred to GELAC are indistinguishable from those funds submitted for matching from July 17 to August 5 is factually inaccurate," they provide no basis for this assertion. See Attachment 2, note 1.

^{17/} The Respondents assert that "only those contributions received after the debt which specifically have "primary" or "primary debt" written on the check . . . should be treated as primary contributions." Attachment 2 at 6. Contrary to these

accurate as possible is important to the public financing system. The significance of this process is demonstrated by the fact that the payment of public funds based on NOCO statements is the only area of public financing where the Commission may temporarily suspend the payment of public funds, prior to an audit and examination, to avoid an overpayment.^{20/} 11 C.F.R. § 9034.5(g)(1).

The Primary Committee submitted its NOCO Statements reflecting net outstanding campaign obligations for which it should have used the private contributions to satisfy. See 11 C.F.R. § 9034.1(b). The private contributions that were ultimately transferred to the Compliance Fund were available to the Primary Committee. However, the Primary Committee did not apply the private contributions to the primary debt and, therefore, it submitted NOCO Statements that were an inaccurate picture of the candidate's financial status. Therefore, the Office of General Counsel recommends that the Commission find reason to believe that the Clinton for President Committee, and J.L. "Skip" Rutherford, as Treasurer, and William J. Clinton violated 11 C.F.R. §§ 104.14(d) and 9034.5(a).

The Respondents argue that a candidate's receipt of matching funds in excess of his entitlement is a repayment matter that may not also be the subject of an enforcement action. Hence, the

^{20/} In other situations where the candidate receives funds in excess of entitlement, the Commission will have already certified the funds and will only seek redress after the audit and examination has been completed. 11 C.F.R. §§ 9038.2(b)(1)(ii) and (iv).

Clinton Campaign Should Refund \$4.1 Million, Federal Auditors Say

By Charles R. Babcock
Washington Post Staff Writer

Federal auditors recommend that President Clinton's 1992 campaign repay the Treasury a record \$4.1 million because they said the campaign was not entitled to all the federal matching funds it received.

The Federal Election Commission is scheduled on Wednesday to discuss the audit findings, which question the campaign's decision to give bonuses to certain employees and disallows payments for two missing rental cars. Last week, auditors suggested that then-President George Bush's 1992 campaign repay \$1.3 million, but the six-member commission cut that amount in half.

The Clinton campaign also disagrees with the audit findings, said campaign committee attorney Lyn Uprecht, and "we feel confident that the commission will too." The campaign committee has a right to a hearing after the FEC votes on the matter. The Clinton Democratic primary campaign, which raised \$25 million and received another \$12.5 million in federal matching funds, was the main target of the auditors' criticism. They determined it owes the Treasury \$3.8 million and questioned the bonuses to campaign workers.

The Clinton-Gore general election campaign, which received \$55 million in federal funds, should repay \$254,546, they said.

The FEC audit found that the

Clinton primary committee transferred \$2.4 million in late donations to a separate committee to pay for legal and accounting expenses when the funds could have paid off primary debts. The effect of the transfer, the auditors said, was to make it appear the committee had a large debt and thus was eligible for more matching funds.

The audit also disallowed nearly \$338,000 in primary campaign expenses that couldn't be documented. These included \$131,250 of the \$237,750 in bonuses the campaign paid to 21 campaign workers or vendors. Among the payments disallowed were \$52,000 to Rahm Emanuel, the campaign's chief fund-raiser, \$12,500 to Christine Varney, \$7,000 to George Stephanopoulos, \$6,000 to David Wilhelm and \$2,250 to Betsey Wright. The auditors are not seeking that the aides return the money.

The auditors did allow an \$87,500 bonus to political consultants James Carville and Paul Begala and a \$25,000 bonus to fund-raiser Amy Zisook. The payment to Carville and Begala was permitted after the committee found an addendum to their contract that allowed the bonus if the candidate were nominated.

As they did in the Bush campaign, the FEC auditors questioned some expenses that the primary campaign paid for that appeared to be for the general election. They included the costs of the video "The Man from Hope" that was played at the Demo-

cratic convention in July, and the booklet "Putting People First" that outlined Clinton's campaign promises.

The auditors also found that nine companies or individuals, including Goldman Sachs & Co.—where Clinton fund-raisers and officials Robert E. Rubin and Kenneth D. Brody worked—and a company owned by longtime friend Harry Thomason, were paid \$246,162 by the primary committee for work at discounted rates. Normally, companies have to charge campaigns the same rates they would other customers.

Those payments weren't included in the amount auditors want repaid. FEC spokeswoman Sharon Snyder said the commission has the option of pursuing those payments separately.

The auditors also questioned the primary committee about more than \$600,000 in payments it made to W.P. Malone Co. through February 1994 that weren't documented other than as "professional services." The firm belongs to Percy Malone, a longtime Clinton friend who had state contracts to do computer work while Clinton was governor of Arkansas.

Among the campaign expenses disallowed in the general election committee were \$34,768 to Alamo Rent a Car for two missing vehicles. The campaign couldn't determine who had the cars last, so no stolen vehicle reports could be filed, the audit noted.

Clinton Campaign's Accounting Practices

By Charles R. Babcock
and Marilyn W. Thompson
Washington Post Staff Writers

Catch FEC's Eye

When Bill Clinton launched his long-shot 1992 presidential campaign from a Little Rock headquarters, W.P. Malone's obscure computer company in small-town Arkadelphia took off with it.

A pharmacist by trade and a Clinton appointee to the state Pharmacy Board, Percy Malone provided the campaign with computer equipment and consulting services, campaign records show. Malone, a Clinton loyalist who did campaign work and helped Clinton lobby the legislature, provided similar computer services to the governor's office under a \$700,000 contract that had been attacked as cronyism by Clinton's Arkansas foes.

Now, the Federal Election Commission is questioning approximately \$608,857 in payments to Malone, part of a list of expenditures with which agency auditors took exception in an exhaustive review of Clinton's presidential campaign finances. The report concludes that the Clinton campaign should refund to the Treasury Department \$4.1 million, most of it in federal matching funds to which auditors say it was not entitled.

The questioned amount—a fraction of the \$67.5 million in federal money that went into the campaign—is the largest reimbursement ever sought from a presidential candidate since the mechanism for public financing was implemented in 1976, FEC officials say.

Lyn Utrecht, an attorney for the Clinton campaign, challenged the FEC's overall findings and said the auditors' conclusions about Malone were unfair. The FEC often cuts the amount of repayment, as it did recently with the Bush-Quayle 1992 campaign, when it slashed the auditors' suggested \$1.3 million repayment in half. The campaign then has the right to appeal the FEC's decision.

The Clinton audit findings, which the commission is expected to consider today, detail scores of undocumented payments, such as a \$37,500 check to "Kathlyn Graves, Escrow Agent." A notation on the check describes it as a "settlement." When auditors asked for further information, they were told it was paid to a former employee for consulting services and that details were confidential.

Graves is a lawyer with Wright, Lindsey, Jennings, the Little Rock law firm where Clinton once worked. Utrecht said the payment to her "has absolutely nothing to do with the president." Graves did not return a reporter's phone call.

The FEC report questions campaign accounting of major expenditures for computer equipment purchases and services, including many from Malone, who, through an assistant, declined to answer questions yesterday. Several of the auditors' complaints center on payments the Clinton primary committee made to Malone's firm to lease computers, including a duplicate payment for \$4,850 that was not explained.

On a larger scale, Malone was paid \$104,000 for leased equipment that the committee said caused considerable trouble as its workload increased. It paid his firm \$33,000 for a programming, software and consulting contract. The FEC auditors noted that the campaign paid Malone for computers that closely matched a system loaned to the campaign on an "interim basis" by another computer company.

Numerous payments to high-level Clinton campaign aides for expenses and bonuses are questioned. The auditors challenged \$58,000 in expense reimbursements made to five Clinton fund-raisers, including Kenneth Brody, who was appointed head of the Export-Import Bank, and Erskine Bowles and Harold Ickes, who are now deputy chiefs of staff at the White House.

For Clinton, the federal audit findings come at an inopportune moment. Independent counsel Kenneth W. Starr has been investigating Clinton's campaign financing during his gubernatorial years, including his 1984 campaign, when depositor funds from the now-defunct Madison Guaranty Savings & Loan ended up in his campaign account. More recently, Starr has been examining Clinton's 1990 reelection bid and the repayment of \$180,000 in debt from a small bank owned by Clinton's state highway commissioner. Fund-raising to pay off the 1990 gubernatorial debt continued until October 1992, creating a period when Clinton was raising money for both his old state debt and his presidential effort. The Arkansas debt was paid off a few weeks before the November presidential election with a surge of contributions from big Democratic Party givers.

Starr has been examining personal loans Clinton took out to fund the 1990 campaign as well as large cash withdrawals his aides made from a campaign account, according to sources close to the investigation.

Clinton's presidential fund-raising began in the summer of 1991, with scattered contributions, mostly from Arkansas supporters, to a Clinton presidential exploratory committee

chaired by his longtime friend Bruce Lindsey, now deputy White House counsel.

It formally became the Clinton for President committee with Clinton's announcement in October 1991 that he would seek the Democratic nomination. (Clinton had formed a similar committee a few years earlier that raised more than \$30,000. It was disbanded before formally filing with the FEC, although it is unclear what happened to the money.)

Most of the expenditures questioned by the FEC focused on Clinton's campaign during the Democratic primaries, but auditors also examined Clinton's general election committee and a compliance fund that must be used by the candidate

to pay for election-related legal and accounting expenses. The FEC team questioned whether the campaign received discounted rates from the firms of Mickey Kantor, now the U.S. trade representative, and longtime Clinton friend Harry Thomason, a Hollywood producer. The audit said the \$134,000 paid to the firms appeared to be at cost rather than normal commercial rates.

Kantor's law firm was paid \$120,000 for the services of staff members who helped him as campaign chairman. Thomason billed the committee \$14,000 for production costs on a campaign video. The auditors didn't accept the committee's argument that the bills were the firms' normal charges.

Other payments the auditors challenged included \$6,000 to David Wilhelm, outgoing chairman of the Democratic National Committee. The payments to Wilhelm were for his apartment rent for several months, an expense the committee chose to reimburse, the report noted.

Carol Willis, another DNC employee who was a longtime Clinton campaign aide in Arkansas, was paid \$11,000 in expense reimbursements that were not adequately documented, the auditors said. Many of Willis's expenses were paid on credit cards belonging to two other men, Wilbur T. Peer and Leroy Brownlee. The committee did not supply evidence, such as canceled checks, that

Willis reimbursed them, according to the report, but Willis said yesterday he paid back the money.

The committee also reported paying \$2,129 for parking tickets, had a \$1,207 fax machine stolen, and lost radios costing \$13,424. The auditors also disallowed \$34,768 to Alamo Rent a Car for two missing vehicles. The campaign said it could not determine who had the cars last.

The campaign also issued more than \$179,000 in traveler's checks, but couldn't document who received \$20,000 of the checks or how \$40,000 of it was spent. The auditors considered the traveler's checks the same as cash and said some individuals received far more than necessary to pay their travel expenses.

checks. The Committee is incorrect. First, the requirement is that the expenditure be made by check or similar draft drawn on an account established at a campaign depository. These traveler's cheques are not drawn on a Committee account. Further, the Committee is not accurate that the traveler's cheques are returned to Worthen Bank. They are sent to American Express. There is no negotiated instrument available for the Audit staff's review at the Committee or their depository. The requirement that checks be drawn on a Committee depository provides records for both Committee and Commission review.

Finally, the Committee states that even if the traveler's cheques are not consistent with the requirements of 11 CFR §102.10, it does not follow that they are undocumented within the meaning of 11 CFR §9033.11. The Committee goes on to cite the various types of documentation that may be presented under that regulation and concludes that the log and Committee per diem policy complies with two of the tests. What the Committee does not consider is that in addition to the listed documentation, 11 CFR §9033.11 requires a canceled check negotiated by the payee. This is not possible when traveler's cheques are used.

The Committee did not explain the difference in the \$179,357 in traveler's cheques purchased and the \$159,190 the Committee claims the traveler's cheque log supports. Also, the log didn't support \$158,000 as claimed in the response. As explained in the Interim Audit Report, although the log recorded approximately \$158,000 in traveler's cheques over \$40,000 of that amount was insufficiently explained. The Committee did not address this problem in their response.

The Audit staff concluded that the use of travelers cheques were cash disbursements in violation of 11 CFR §102.10 since the cheques were not a check or similar draft drawn on an account established at a Committee campaign depository, and therefore, were non-qualified campaign expenses. Further, the expenditures were not documented in accordance with 11 CFR §9033.11.

At the Commission meeting of December 15, 1994, the Commission decided to permit the Committee to consider amounts of \$100 or less, per transaction, as a qualified campaign expense. As a result of this decision a total of \$166,658 was determined to be non-qualified campaign expenses.

d. W.F. Malone, Inc.

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Invoices for leased equipment for February, March and April, 1992 totaled \$40,710. Committee records indicate three payments were made, \$10,000 on March 27, 1992, \$15,000 on June 1, 1992 and 15,710 on August 25, 1992, which paid the balance in full. In addition, on July 10, 1992 the Committee paid \$4,850 which appears to be a partial payment on the April, 1992 billing. Therefore, \$4,850 represents an apparent duplicate payment. The

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As noted earlier, the Committee provided little of the specific information requested in the Interim Audit Report to support its contention. However, the Committee did provide a memorandum from Sherry Curry listing the Bimonthly Correspondence Report from January 1992 to November 1992. Her memorandum shows the increase in correspondence handled by the leased CCI 632. According to the documentation, her department handled 3,000 pieces of correspondence in January, 1992 and it increased to 6,000 in February, 1992. It remained at approximately this level throughout the rest of the primary. She points out this is not all the correspondence handled by the campaign, only the general correspondence handled by her department.6/

In fact, the documentation indicates that there is not a significant increase until July, 1992. For the first half of July the Committee processed over 6,000 pieces of correspondence, but the number increased to over 9,000 in the second half of July, to almost 27,000 pieces in August, and then it decreased to almost 19,000 in September. It is our opinion that, based on the documentation submitted by the Committee, the Committee accomplished its objectives with its old equipment during the primary period, but would have definitely needed expanded capabilities during the general election period.

With respect to delegate tracking, the information provided indicates that at the end of April 1992, that operation was moved to a separate location and utilized a personal computer network. The Committee also notes that this equipment was then used at the convention. It is agreed that this equipment is a primary expense. However, information available does not indicate how much, if any, of the cost of this equipment is included in the amount addressed above. Therefore no adjustment has been made.

* The Committee also argues that the audit analysis is inconsistent since the equipment is challenged but not increased levels of staffing. Although the Committee may be correct that some staff hired by the Committee may have been working on the general election, Committee records contain no documentation that provides information to form a basis for such a challenge.

* Finally, the Committee notes that in May and June 1992, it considered alternatives to acquiring a new computer system. However, it was concluded that an upgrade of the existing system would cost approximately \$400,000 and still be unreliable. The Committee decided to buy the new system with the expectation that

6/ Although in a memorandum submitted by the Committee in response to the exit conference, it states that mailings of 5,000 to 6,000 pieces per day were being handled. The relationship between these two memoranda is not clear.

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29-4

Campaign blackmail

Dick Morris, the former political guru to President Clinton, says federal matching funds were used the 1992 campaign to intimidate various women linked to Bill Clinton.

"Under Betsy Wright's supervision in the 1992 Clinton campaign, there was an entire operation funded with over \$100,000 of campaign money, which included federal matching funds to hire private detectives to go into the personal lives of women who were alleged to have [had] sex with Bill Clinton. To develop compromising material — blackmailing information, basically — to coerce them into signing affidavits saying that they did not have sex with Bill Clinton," Mr. Morris said Tuesday on CNBC's "Equal Time."

Mr. Morris added: "I have personal knowledge that this happened. Betsy Wright, who coordinated it, told me it happened."

29038

29-V

THE WASHINGTON POST

OUTLOOK

SUNDAY, JULY 12, 1998 C5

NOT WITH MY MONEY Here's more evidence that Americans aren't quite ready for public financing of political campaigns. The percentage of taxpayers who check the box earmarking \$3 to fund presidential election campaigns dropped from 28 percent in 1976 to 12 percent last year, the lowest percentage ever, reports the Internal Revenue Service in its Taxpayer Usage Study.

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BY PETER ALSEBRO—THE WASHINGTON POST

29039

29-W